

MASTER AGREEMENT FOR PROFESSIONAL PROGRAM MANAGEMENT SERVICES

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is effective this 17th day of December 2024,

by and between the **Town of Eatonville**, ("Owner"), a public and governmental body existing under and by virtue of the laws of Florida, with a business address at [307 E Kennedy Blvd, Eatonville, FL 32751](#) , and **Geotech Consultants International, Inc. dba GCI Inc.**, ("Consultant"), a Florida corporation licensed to do business in Florida, with a business address at **2290 North Ronald Reagan Blvd., Suite 100, Longwood, FL 32750**.

WITNESSETH:

WHEREAS, the Owner desires to employ the Consultant to provide professional services for Continuing Program and Project Management Services, as described herein, at the Town of Eatonville and

WHEREAS, the Consultant is licensed, qualified, willing and able to perform the professional services required on the terms and conditions hereinafter set forth; and

WHEREAS, the Owner has given public notice of the professional services to be rendered pursuant to this Agreement, a copy of which is attached hereto as **Exhibit B** and incorporated herein by reference; and

WHEREAS, the selection of the Consultant has been made in accordance with the provisions of 49 CFR Part 18, and the Consultant's Competitive Negotiation Act, Section 287.055, Florida Statutes.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the Owner and the Consultant do hereby agree as follows:

ARTICLE 1-GENERAL PROVISIONS

1.1 Basic Definitions

Wherever used in this Agreement, the following terms have the meanings indicated, which are applicable to both the singular and plural thereof:

1.1.1 Additional Services

Services which may be requested from the Consultant by the Owner in addition to the Basic Services covered by this Agreement. Additional Services, if any, will be defined in an Addendum to this Agreement.

1.1.2 Agreement

The Agreement for Professional Services between the Consultant and Owner, including all Exhibits listed in Article 20 of this Agreement, including all amendments and addenda hereto.

1.1.3 Basic Services

The Basic Services to be performed by the Consultant for the Owner as described in Exhibit **A and B** of this Agreement.

The following abbreviations will be used throughout this Agreement:

1. FAA- Federal Aviation Administration
2. FDOT -- Florida Department of Transportation
3. TSA-- Transportation Security Administration
4. DOT -U.S. Department of Transportation
5. Owner - Town of Eatonville

1.1.5 Consultant's Compensation

Consultant's Compensation means the fees and expenses incurred directly in connection with the performance or furnishing of Basic and Additional Services for which the Owner shall pay the Consultant as indicated in **Exhibit A**.

1.1.6 Services

Services means both Basic and Additional Services performed by the Consultant for the Owner under this Agreement.

ARTICLE 2 -SERVICES TO BE PROVIDED BY THE CONSULTANT

2.1 Basic Services

2.1.1 The Consultant hereby agrees to provide professional services required for Basic Services as defined in **Exhibit A**.

2.1.2 The Consultant shall perform Basic Services in accordance with the terms and conditions of this Agreement and with all applicable federal, state and local laws, regulations, rules and ordinances then in effect or as amended.

2.2 Additional Services

The Consultant agrees to perform such Additional Services as may be negotiated between the Owner and the Consultant and set forth in an Addendum to this Agreement, executed by the Owner and Consultant. An Addendum for Additional Services will establish either a lump sum amount or per diem or hourly rates with a not to exceed limit for the cost to complete the Additional Services. Hourly rates shall be those most recently negotiated rates with the Owner. In the event that unit prices were defined for various services in this Agreement for Basic

Services, these same unit rates shall be used as the basis for determining the cost for Additional Services. An Addendum will also define the amount of time for the Consultant to complete the Additional Services. It is expressly understood, however, that the Owner shall have no obligation to authorize the Consultant to perform any Additional Services under this Agreement. Additional Services will be performed in accordance with the terms of this Agreement and all applicable federal, state and local laws, regulations, rules and ordinances then in effect or as amended.

2.3 Personnel

The Consultant agrees to retain the necessary qualified personnel to perform all Basic and Additional Services for the Owner pursuant to this Agreement and any Addenda hereto. Consultant shall ensure that all such personnel, while performing Services hereunder, shall conduct themselves in a professional manner. The Consultant further agrees to remove promptly any personnel from performing Services as the Owner shall request in writing, which request may be made by the Owner with or without cause, and to replace promptly such personnel with another of the Consultant's qualified personnel who shall be approved in writing by the Owner

2.4 Subconsultants

2.4.1 The Consultant, in order to supplement its forces with additional expertise and to meet its Article 18 requirements of small business participation, may employ other entities and individuals to serve as subconsultants. All subconsultants proposed for the services shall be selected by the Consultant from a prequalified pool of subconsultants previously approved the Owner's Professional Services Committee. The pool of approved subconsultants shall be developed cooperatively by Owner and Consultant, following advertisement and an outreach program, in order to identify qualified small businesses that are available to provide the necessary services. Approval of any proposed subconsultant shall be in Owner's sole discretion. All proposals that include subconsultant personnel that were not expressly included in the subconsultant's Statement of Qualifications must include resumes and a detailed scope of work to be performed by the proposed personnel. No payment will be made for work performed by subconsultant personnel that are not specifically identified in an approved proposal.

2.4.2 The Consultant agrees, at the Owner's written request, which may be made by the Owner with or without cause, to terminate promptly the services of any Subconsultant and to replace promptly each such terminated Subconsultant with a qualified firm or individual approved by the Owner in writing. The Consultant further agrees to cause the Subconsultants to remove promptly any employees providing Services under this Agreement as the Owner shall request in writing, which may be made by the Owner with or without cause, and to replace promptly each such employee with another qualified employee acceptable to the Owner.

2.4.3 The Owner shall have no liability or obligation to the Subconsultants hereunder.

2.4.4 The Owner shall have the right, but not the obligation, based upon sworn statements of accounts from the Subconsultants, and in accordance with the Consultant's written request, to pay a specific amount directly to a Subconsultant. In such event, the Consultant agrees any such payments shall be treated as a direct payment to the Consultant's account.

2.4.5 Subconsultant fees shall be billed to the Owner at cost with no additional markup applied by the Consultant. Additionally, previously negotiated Subconsultant hourly rates shall be utilized in proposals for Additional Services.

2.4.6 All Services performed by Subconsultants under this Agreement shall be pursuant to an appropriate written agreement between the Consultant and each Subconsultant. The Consultant shall require each Subconsultant to be bound to the Consultant by all the terms of this Agreement, and to be responsible to the Consultant for all the obligations and responsibilities for which the Consultant, pursuant to this Agreement, is responsible to the Owner, except as provided in Paragraph 15.5.13. The Consultant shall make available to each proposed Subconsultant, prior to execution of the Subconsultant's agreement, a copy of this Agreement. When requested by the Owner, the Consultant shall submit copies of the written agreements between the Consultant and the Subconsultants.

2.5 Consultant's Standards of Performance

The Consultant shall use professional standards of care and performance to perform all Services in such quality and sequence, and in accordance with such reasonable time requirements and reasonable written instructions, as may be requested or provided by the Owner and as required by the project. The Services must be provided in a manner that is consistent with the level of reasonable care, skill, judgment and ability provided by professionals providing a similar type of Services in the same geographic area.

2.6 Consultant's Liability

The Consultant shall be and remain liable in accordance with applicable law for all damages to the Owner and the Owner's property caused by the improper acts, errors or omissions of the Consultant or by any Subconsultants in performing any Services. The term "improper acts, errors or omissions" shall include, but not be limited to, negligent, reckless, wanton, intentional, or willful failure to perform the Services in accordance with the professional standard of care and performance for each Service set forth in this Agreement.

2.7 Consultant's Obligation to Correct Errors or Omissions

The Consultant shall be responsible for the professional quality, technical adequacy and accuracy, timely completion, and coordination of all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and other services furnished by the Consultant. If any design work or submittal prepared by the Consultant contains an error, omission, deficiency or mistake, Owner reserves the right to back-charge reasonable costs incurred in identifying, documenting, and remedying any such error, omission, deficiency or mistake.

Such back-charge amounts may be deducted from any payment(s) due the Consultant. If the payments due the Consultant are not sufficient to cover such amount(s), the Consultant shall be responsible for paying the difference to Owner.

Upon written notice from Owner the Consultant shall, without additional compensation, correct or revise any errors, omissions, mistakes or other deficiencies in such data, studies, surveys, designs, specifications, calculations, estimates, plans, drawings, construction documents, work, and materials resulting from the improper act, error or omission of the Consultant or any Subconsultants.

2.8 Consultant's Obligation to Repair Damaged Property

The Consultant shall promptly repair, at its sole cost and expense and in a manner acceptable to the Owner, any damage caused by the improper act, error or omission of the Consultant to facilities operated or controlled by the Owner or any third party to which the Owner is accountable, or any improvements or property located thereon. If any damage is caused partially by improper acts or omissions of the Owner or a third party for whom the Consultant is not responsible, all parties shall bear their proportional share of the repair costs based upon the parties' relative degree of fault.

2.9 Owner's Approval shall not Relieve Consultant of Responsibility

Review or approval by the Owner of data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and incidental work or materials furnished hereunder shall in no way relieve the Consultant of responsibility for the technical adequacy and accuracy of Services performed by the Consultant. Neither the Owner's review, approval, acceptance of, nor payment for, any of the Services under this Agreement shall constitute a waiver of any of the Owner's rights under this Agreement or of any cause of action it may have arising out of the this Agreement.

2.10 Non-Exclusive Rights

The rights granted to the Consultant hereunder are nonexclusive, and the Owner reserves the right to enter into agreements with other consultants to perform professional services, including without limitation, any of the Services provided for herein.

2.11 Consultant's Compliance with Laws and Regulations

2.11.1 The Consultant and its employees and Subconsultants shall promptly observe and comply with all applicable federal, state and local laws, regulations, rules and ordinances then in effect or as amended ("laws"), including, but not limited to, the laws governing the wages paid by the Consultant to its employees.

2.11.2 The Consultant shall procure and keep in force during the term of this Agreement all necessary licenses, registrations, certificates, permits and other authorizations as are required by law in order for the Consultant to render its Services hereunder

2.11.3 Effective January 1, 2021, the Consultant shall register with and utilize the U.S. Department of Homeland Security's Employment Eligibility Verification System (E-Verify), in accordance with the terms governing the use of the system, to verify the work authorization status of all newly hired employees, performing work in the United States. The Consultant shall include an express provision in all Subcontracts requiring the Subconsultants and Subcontractors to do the same and require all Subconsultants and Subcontractors to provide the Consultant with an affidavit stating that the Subconsultant/Subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Consultant must retain all such affidavits for the duration of the Contract. In accordance with Florida Statutes §448.095, the Owner shall terminate this Contract if Owner has a good faith belief that the Consultant knowingly employs an unauthorized alien or has otherwise violated Florida Statute

§448.09(1). The Owner shall require the Consultant to terminate the contract of a Subconsultant/Subcontractor if Owner has a good faith belief that the Subconsultant/Subcontractor has knowingly violated Florida Statute

§448.09(1). The Consultant may challenge any such termination in accordance with Florida Statutes §448.095. Consequences for a violation of this subsection also include liability for the Owner's costs because of the termination-and debarment for at least one (1) year in accordance with Florida Statutes §448.095.

2.12 Consultant is not Owner's Agent

The Consultant is not authorized to act as the Owner's agent hereunder and shall have no authority, expressed or implied, to act for or bind the Owner hereunder, unless set forth in Addenda hereto.

2.13 Reduced Scope of Services

The Owner shall have the right, by written notice to the Consultant, to reduce the scope of Services to be rendered hereunder. In the event the scope of Services are reduced by the Owner, the Consultant shall promptly notify the Owner in writing after receipt of such notice of the amount by which the total compensation for that particular scope or service should be reduced. The reduction in compensation shall be calculated on the basis of the Consultant's labor estimates and labor-hour costs for such Services and the related reimbursable expenses. The Consultant's notice to the Owner shall show this calculation in reasonable detail. The Owner shall, with reasonable promptness after receipt of the Consultant's calculation of compensation reduction, notify the Consultant in writing of its acceptance or objection to the amount of compensation reduction, together with the Owner's determination of the proper amount of compensation reduction, which determination shall be conclusive.

2.14 Suspension

If the Owner suspends the Project, or any portion thereof, the Consultant shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Consultant shall be compensated for expenses incurred in the interruption and resumption of the services. The fees for the remaining services and the time schedules shall be equitably adjusted. If the Owner suspends the Project or a portion thereof for more than 90 cumulative days for reasons other than the fault of the Consultant, the Consultant may terminate this Agreement by giving not less than seven days' written notice.

2.15 Consultant's Representative

The Consultant shall designate a person to act as the Consultant's Representative as identified in **Exhibit A**. The Consultant's Representative shall have complete authority on behalf of the Consultant to transmit or receive information, to propose or proceed with action requested by the Owner and to execute Addenda on behalf of the Consultant.

ARTICLE 3 - OWNER'S RESPONSIBILITIES

3.1 Furnishing Information and Instructions; Examination of Documents

3.1.1 Upon request by the Consultant, the Owner will make available for the Consultant's investigation and use the Owner's library of record documents for the Owner's existing facilities, and other information pertinent to the Services which may be available, including any survey and geotechnical information. However, it will be the Consultant's responsibility to research these existing documents to determine which, if any, are applicable to the Services. It will also be the Consultant's responsibility to verify all applicable information shown on the Owner's record documents or any other information provided by the Owner prior to relying upon such information for execution of the Services.

3.2 Review of Consultant's Submittals

Subject to the provisions of this Agreement, the Owner may examine all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda and other documents and instruments prepared by the Consultant and delivered to the Owner pursuant to this Agreement, within a reasonable time so as not to unreasonably delay the Consultant in the rendering of its Services. The Owner will promptly notify the Consultant of any observed deviations from the Scope of Services as defined herein and in the attached **Exhibit A**, errors or other defects in such data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda and other documents and instruments.

3.3 Reasonable Access

The Owner will allow the Consultant reasonable access to facilities controlled by the Owner to enable the Consultant to perform the Services. The Consultant acknowledges and agrees that such access rights shall not be exercised in a manner that impedes or interferes with the

operation of the Owner's facilities or the activities of the Owner's lessees, licensees, permittees, or any other applicable parties responsible for the facilities. The Consultant further agrees to abide by all applicable regulations regarding access to the Owner's facilities, including restricted or secure areas as designated by the Owner. The Consultant will obtain all necessary permissions, required for such access by the Consultant's personnel, at no additional cost to the Owner.

3.4 Owner's Representative

The Owner's Representative, as identified in **Exhibit A**, acts as the Owner's Representative with respect to Services to be provided by the Consultant under this Agreement.

ARTICLE 4 - TIME

4.1 The Consultant's Services and compensation under this Agreement have been agreed to in anticipation of the orderly and continuous progress of the Services through completion.

4.2 The date for commencement of the Services by the Consultant is the effective date of the Notice to Proceed.

4.3 A **schedule** for the Services shall be included in each Addendum by executing an Addendum, the Consultant acknowledges that the schedule set forth in such Addendum is both realistic and achievable, and that the Services will be completed within the time frame set forth in the schedule.

4.4 If, at any time prior to completion of the Services, the Consultant determines that the Services are not progressing according to the schedule as set forth in the Addendum, the Consultant shall immediately notify the Owner in writing and shall provide a description of the cause of the delay, the effect on the schedule and the recommended action to meet the schedule.

ARTICLE 5--PAYMENTS TO CONSULTANT FOR SERVICES AND REIMBURSABLE EXPENSES

5.1 Compensation for Services

For Services rendered by the Consultant, the Owner shall pay the Consultant in accordance with the payment rates specified in Exhibit A. To obtain payment in the most efficient manner, the Consultant may opt to enroll in an electronic funds transfer (EFT) payment system or other methods offered by the Owner. The Owner will provide instructions on the payment enrollment process and requirements upon request.

All invoices must be submitted in accordance with the Owner's established procedures to ensure timely processing and payment. The Consultant is responsible for ensuring invoices are complete, accurate, and submitted in compliance with the terms of this Agreement.

5.2 Reimbursable Expenses

5.2.1 The Owner shall pay the Consultant for Reimbursable Expenses incurred by the Consultant as defined in **Exhibit A and Exhibit C**.

5.2.2 Reimbursement for travel, for either Basic or Additional Services, shall be made in accordance with the Owner's travel policy attached as **Exhibit D**.

5.3 Invoices

5.3.1 The Consultant shall submit invoices to the Owner, in the form attached as **Exhibit C**, no more frequently than monthly, for all Services rendered hereunder since the last monthly invoice. Invoices shall be in a form and with detail satisfactory to the Owner and shall include the nature and amount of each expense, separated and identified as reasonably requested by the Owner. The Consultant shall submit one (1) original of the invoice to the Owner, by uploading the invoice in accordance with the Owner's instructions.

5.3.2 Monthly invoices shall also contain the following information:

- Lump sum amount invoices shall include a percentage of such lump sum fee equal to the percentage of Services completed since the last monthly invoice.
- Per Diem or hourly rates invoices shall be based upon the number of days or hours of service actually rendered by the Consultant and its Subconsultants since the last monthly invoice, broken down by appropriate billing classifications.
- Monthly invoices for Reimbursable Expenses incurred since the last monthly invoice shall include the nature and amount of each expense, the date on which it was incurred, and the task to which each expense relates, submitted in a form and with detail satisfactory to the Owner.
- Certification from a Principal or Officer that amounts previously paid by the Owner to the Consultant for work, expenses, supplies, etc. of Subconsultants have been disbursed.
- Consultant Disbursement Form included in Exhibit C.

5.3.4 The Consultant represents and warrants that all billable hours and rates furnished by the Consultant to the Owner shall be accurate, complete and current as of the date of this Agreement or Addenda hereto. Current rates are defined as the most recently negotiated rates with Consultant and Subconsultants. Consultant shall also verify that Subconsultant rates are accurate, complete and current prior to submission of invoices. The Consultant further covenants and agrees that all billing rates, estimates of the percent of Services which have been completed, and other factual unit costs furnished by the Consultant to the Owner to support any lump sum amount, or per diem or hourly rates, which the Owner agrees to pay for any Services shall be accurate, complete and current as of the date of this Agreement or any

Addenda authorizing the Consultant to perform Services. The making of any willfully false statement by the Consultant in a monthly invoice shall be grounds for the immediate termination by the Owner of this Agreement.

5.3.5 The Owner shall notify the Consultant in writing of any objection to the amount of such invoice, together with the Owner's determination of the proper amount of such invoice. Such notice shall be accompanied by the Owner's payment of any undisputed portion of such monthly invoice. Any dispute over the proper amount of such monthly invoice shall be resolved by mutual agreement of the parties, and after final resolution of such dispute, the Owner shall promptly pay the Consultant the amount so determined, less any amounts previously paid by the Owner with respect to such monthly invoice. In the event it is determined that the Owner has overpaid such monthly invoice, the Consultant shall promptly refund the amount of such overpayment to the Owner, together with interest thereon at the rate of 6% per annum from the date such amounts were paid by the Owner.

5.3.6 Consultant shall, upon written request from the Owner, provide such records to verify payment to Subconsultants. Records may include, but not be limited to, cancelled checks, invoices and other financial information.

5.3.7 Upon completion of the performance of Additional Services covered by any particular Addenda, or as agreed to by the parties, Consultant shall submit a final invoice and denote "Final Invoice" on same.

5.4 Adjustment to Fees

In addition to any other rights or remedies available to the Owner, the Owner shall have the right to adjust the fee payable to the Consultant for any Services in order to prevent payment by the Owner of any sum which the Owner determines was increased due to inaccurate, incomplete, non-current billing rates, hours or estimate of completion status, and other factual unit costs, provided that such adjustment is made by the Owner within one year from the date of payment by the Owner of the Consultant's final invoice for the Services to which the adjustment relates.

5.5 Annual Rate Adjustment

The per diem or hourly rates set forth in Exhibit **A** may be reviewed annually on or before the anniversary date of this Agreement. In the event the Consultant has more than one Agreement with the Owner, the anniversary date will be the latter Agreement's anniversary date. Any adjustments to per diem or hourly rates shall be negotiated, approved in writing by the Owner and shall be effective no earlier than the anniversary date of the Agreement. Adjusted billing rates cannot be utilized for billable hours performed prior to the approval date. Subconsultant billing rates may or may not be affected by the annual rate adjustment, i.e. Subconsultant with rates negotiated under another agreement and within one year of those negotiated rates.

ARTICLE 6 - RECORDS

6.1 Maintenance of Records

The Consultant shall maintain complete and accurate records relating to all Services rendered by Consultant and any Sub-consultants pursuant to this Agreement. Records shall be kept in a form reasonably acceptable to the Owner. Records and invoices for Services shall include all of the information required in order to determine the Consultant's monthly hours for each employee rendering Services hereunder and shall identify the Services rendered by each employee in a manner acceptable to the Owner. Records for Reimbursable Expenses shall identify the nature and amount of each expense, the date on which it was incurred, and the task to which the expense relates.

6.2 Access to Records and Reports

The Consultant shall maintain an acceptable cost accounting system. All of the Consultant's books, documents, papers and records directly relating to Services shall, upon reasonable notice by the Owner, be made available to the Owner, of whom shall have the right from time to time, through their respective duly authorized representatives, at all reasonable times, to review, inspect, audit or copy the Consultant's records. Production of such records by the Consultant shall not constitute promulgation and shall retain in the Consultant all rights and privileges of workmanship, confidentiality and any other vested interests. If, as a result of an audit, it is established that the Consultant has overstated its hours of service, Reimbursable Expenses, per diem or hourly rates for any month, or percentage of lump sum amount earned in any month, the amount of any overcharge paid by Owner as a result of an overstatement shall forthwith be refunded by the Consultant to the Owner with interest thereon, if any, at a rate of six percent (6%) per annum on the overstated amount accrued from forty-five (45) days after the Owner's notice to the Consultant of the overstatement. If the amount of an overstatement in any month exceeds five percent (5%) of the amount of the Consultant's statement for that month, the entire reasonable expense of the audit shall be borne by the Consultant. The Consultant shall retain all records, books, and reports required under this Contract and shall make same available to the requesting party for a period of five (5) years from the date of payment by the Owner of the final invoice for the Services and all pending matters are closed. The Consultant shall insert this provision into any lower tier contract.

6.3 Public Records

When the Consultant receives any request to inspect or copy any records that relate to this Agreement, it shall promptly provide the Owner with a copy of the request. The Owner will respond to each such request on behalf of itself and the Consultant and the Consultant agrees to fully cooperate with the Owner with regard to all records requests and comply with all decisions made by the Owner regarding the production/disclosure. The Consultant shall:

- Keep and maintain public records that ordinarily and necessarily would be required by the Owner in order to perform the services being performed by the Consultant.

- Provide the public with access to public records on the same terms and conditions that the Owner would provide the records and at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, as amended, or as otherwise provided by law.
- Except as authorized by law, ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed *for the duration of the Agreement, as well as following completion or termination of the Agreement if the Consultant does not transfer the records to the Owner.*
- Meet all requirements for retaining public records and *upon completion or termination of the Agreement, transfer, at no cost to the Owner all public records in possession of the Consultant or keep and maintain the public records required by the Owner and the law to perform the Services. If the Consultant transfers all public records to the Owner upon completion or termination of the Agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Owner in a format that is compatible with the information technology systems of the Owner. If the Consultant keeps and maintains public records upon completion or termination of the Agreement, the Consultant shall meet all applicable requirements for retaining public records.*
- Failure to grant such public access or otherwise comply with the Owner's request for records will be grounds for immediate termination of this Agreement by the Owner.
- *Failure to provide the public records to the Owner within a reasonable time may also subject the Consultant to penalties under section 119. 10, Florida Statutes.*
- *If a civil action is filed against consultant to compel production of public records relating to this Agreement, Consultant will be solely responsible and liable for its attorney's fees and any resulting damages.*

ARTICLE 7 -TERM OF AGREEMENT AND TERMINATION

7.1 Term of Agreement

The term of this Agreement shall be for a period of three (3) years from the effective date shown on Page 1. The Owner, with the mutual agreement of the Consultant, may elect to renew this Agreement for two (2) additional one-year periods. The Consultant shall perform all services authorized during any renewal period in accordance with the terms and conditions set forth herein. Projects funded under this Agreement shall be limited to those projects which are expected to be initiated within five (5) years of the date of the fully executed Agreement.

7.2 Agreement Termination - Default

This Agreement or the Services performed hereunder may be terminated in whole or in part in writing by either party in the event of substantial failure by the other party to fulfill its obligations under this Agreement, or under any Addendum hereto, through no fault of the terminating party; provided, however, that no such termination may be effected unless the other party is given (1) not less than thirty (30) calendar days written notice of intent to terminate; and (2) an opportunity for consultation with the terminating party prior to termination. Upon receipt of the notice of termination, the Consultant must immediately discontinue all services affected unless the notice directs otherwise. The Consultant's obligations to the Owner arising from the Consultant's improper acts or omissions shall survive the termination of this Agreement. In the event the termination is due to Consultant's failure to fulfill the Consultant's obligations, the Consultant must deliver to Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and material prepared by the Engineer under the Agreement, whether complete or partially complete. In the event the termination is due to Consultant's failure to fulfill the Consultant's obligations, the Owner may take over the work and prosecute the same to completion by Agreement or otherwise pursuant to the provisions herein. In such a case, the Consultant shall be liable to the Owner for any additional cost occasioned to the Owner thereby. The owner reserves the right to withhold payments to consultant until such time the default is cured, if applicable, or the Owner elects to terminate the Agreement. Any compensation paid to the consultant for satisfactory work completed up to and through the date the Consultant received the termination notice will not include anticipated profit on non-performed services under any circumstance. If, after notice of termination for failure to fulfill Agreement obligations, it is determined that the Consultant had not so failed, the termination shall be deemed to have been affected for the convenience of the Owner. In such an event, adjustment in the contract price shall be made as provided herein. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

7.3 Agreement Termination - Convenience

This Agreement or the Services performed hereunder may be terminated in whole or in part in writing by the Owner for its convenience and an equitable adjustment in the contract price shall be made; provided, however, that the Consultant shall be given (1) not less than thirty (30) calendar days written notice of intent to terminate; and (2) an opportunity for consultation with the Owner (in the manner determined by the Owner in its sole discretion) prior to termination. Any compensation paid to Consultant for satisfactory work completed up and through the date the Consultant received the termination notice will not include anticipated profit on non-performed services under any circumstance. Upon receipt of the notice of termination, except as explicitly directed by Owner, the Consultant must immediately discontinue all services affected. Upon termination of the Agreement, the Consultant must deliver to Owner all data, surveys, models, drawings, specifications, reports, maps, photographs, estimates, summaries, and other documents and material prepared by the Engineer under the Agreement, whether complete or partially complete. The duties and obligations imposed by this Agreement and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

7.4 Agreement Termination - False Certification/Scrutinized Company

Owner may terminate this Agreement for cause and without the opportunity to cure if the Consultant is found to have submitted a false certification or has been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel.

In the event this agreement is for One Million Dollars (\$1,000,000.00) or more, Owner may terminate this Agreement for cause and without the opportunity to cure if the Consultant is found to have submitted a false certification or has been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or is engaged in business operations in Cuba or Syria.

7.5 Addenda Termination

Owner may terminate Addenda without cause by verbal or written notification to Consultant. Upon notification, Consultant will immediately discontinue all Services specified in the Addenda and submit a final invoice to the Owner within thirty (30) days of Owner's notice of termination to Consultant for those services actually performed.

7.6 Termination - Price Adjustment

In connection with any termination of the Agreement or any Addenda, the Consultant shall have no entitlement to recover anticipated profit for Services or other work not performed.

7.7 Notice of Intent to Terminate

Upon the Owner's giving of notification of termination of the Consultant, or upon the Consultant's giving of notice of intent to terminate as provided herein, the Consultant shall: (1) promptly discontinue all Services affected (unless the Owner directs otherwise); and (2) upon request, deliver or otherwise make available to the Owner all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, other documents and instruments, and such other information and materials as may have been prepared or accumulated by the Consultant or by the Subconsultants in performing Services under this Agreement, whether completed or in process. The rights and remedies of the Owner provided in this Agreement are in addition to any other rights and remedies provided by law or under this Agreement.

7.8 Owner's Right to Complete Terminated Services

Upon termination pursuant to this Agreement, the Owner may take over the Services and perform the Services to completion by agreement with another party or otherwise. In doing so, the Owner shall not waive its right to pursue any remedy that it may have against the Consultant arising out of the Consultant's performance hereunder.

7.9 Remedies

The duties and obligations imposed by the Agreement and the rights and remedies available hereunder are in addition to, and not a limitation of, any duties, obligations, rights, and remedies otherwise imposed or available by law.

ARTICLE 8 - DOCUMENTS AND DRAWINGS

8.1 Furnishing Copies

8.1.1 Except as otherwise provided in this Agreement or in any Addendum hereto, the Consultant shall furnish the Owner one (1) editable electronic media copy in original software format, one (1) in PDF format and one (1) hard copy of all data, designs, specifications, calculations, estimates, plans, drawings, photographs, reports, memoranda, and all other documents and instruments of any type or nature (except working papers), which have been prepared by the Consultant or by the Subconsultants in rendering Services. The Consultant further agrees that at the Owner's request, the Consultant shall cause one or more of its qualified employees to review promptly personally with the Owner's designated representatives any and all such drawings and documents. Copies of drawings and documents shall be furnished to the Owner by the Consultant at the Owner's request, and except as otherwise provided in any Addendum for Additional Services, the Consultant shall receive a reasonable amount for reimbursement of its cost for such additional copies.

8.1.2 Except as otherwise provided in any Addendum for Additional Services, the Consultant shall immediately upon the termination of this Agreement for any reason, furnish to the Owner at no additional cost or expense one reproducible copy, in media acceptable to the Owner and one complete set on electronic media, of all drawings and documents which have been prepared or accumulated by the Consultant or by any Subconsultant in rendering Services but which have not been furnished previously to the Owner by the Consultant pursuant to this Agreement.

8.2 Ownership

All documents prepared or accumulated by the Consultant in rendering Services shall be the sole property of the Owner and the Owner shall be vested with all rights therein of whatever kind and however created; provided, however, that the Consultant shall have no liability to the Owner for the Owner's use of the Consultant's work product unless used in connection with this Agreement or any Amendments or Addenda thereto, or for the Owner's use of work product of the Consultant which is delivered to the Owner in incomplete form, accompanied by written notice to the Owner that such work is incomplete describing in sufficient detail why the documents are incomplete. No reports, maps, drawings, specifications or other documents produced in whole or in part under this Agreement shall be the subject of any application for copyright by or on behalf of the Consultant or any of its Subconsultants.

8.3 Identification of Documents

All drawings, specifications, reports, maps and other documents completed as part of this Agreement, other than documents provided exclusively for internal use by the Owner, shall contain the month and year the document was prepared, the words, "Town of Eatonville" or such other notations as the Owner may direct in writing.

8.4 Confidentiality

The Consultant shall not, during the term of this Agreement and forever thereafter, knowingly divulge, furnish or make available to any third person, firm or organization, without the Owner's prior written consent, or unless incident to the proper performance of the Consultant's obligations hereunder, or in the course of judicial or legislative proceedings where such information has been properly subpoenaed, any information generated by the Consultant or received from the Owner, concerning the Services rendered by the Consultant or any Subconsultant pursuant to this Agreement. The Owner's intent is to protect security and proprietary information. The Owner does not intend to restrict the Consultant from normal publication, marketing or awards activities and will not unreasonably withhold its consent.

8.5 Sensitive Security Information

The Consultant shall not, during the term of this Agreement and forever thereafter, knowingly divulge, furnish or make available any sensitive security information to any third person, firm or organization, without the Owner's knowledge and prior written consent, including requests for said information made in the course of judicial or legislative proceedings where such information has been properly subpoenaed, Consultant is further prohibited from releasing and reproducing security sensitive information within Consultant's firm and distribution among Consultant's Subconsultants without the Owner's knowledge and prior written consent.

8.5.1 SSI: Sensitive Security Information -- also noted as (SSI) -- is information that, if publicly released, would be detrimental to critical infrastructure security, as defined by Federal regulation 49 C.F.R. part 1520. Although SSI is not classified information, there are specific procedures for recognizing, marking, protecting, safely sharing, and destroying SSI. Persons receiving SSI are considered "covered persons" under the SSI regulation, in order to carry out responsibilities related to critical infrastructure security and are obligated to protect this information from unauthorized disclosure.

8.5.2

- The following information indicates requirements for access to, control of, and/or distribution of Project Documents Marked as Sensitive Security Information or SSI.
 - You Must -- Lock All SSI: Store SSI in a secure container such as a locked file cabinet or drawer (as defined by Federal regulation 49 C.F.R. part 1520.9 (a)(1)).
- You Must -- When No Longer Needed, Destroy SSI: Destruction of SSI must be complete to preclude recognition or reconstruction of the information (as defined by Federal regulation 49 C.F.R. part 1520.19).
- You Must -- Mark SSI: The regulation requires that even when only a small portion of a paper document contains SSI, every page of the document must be marked with the SSI header and footer shown at left (as defined by Federal regulation 49 C.F.R. part 1520.13). Alteration of the footer is not authorized.
- Reasonable steps must be taken to safeguard SSI. While the regulation does not define reasonable steps, the following best practices, tailored to the Town of Eatonville, are recommended for handling SSI materials:
 - Use an SSI cover sheet on all SSI materials.

- Electronic presentations (e.g., PowerPoint) should be marked with the SSI header on all pages and the SSI footer on the first and last pages of the presentation.
- Spreadsheets should be marked with the SSI header on every page and the SSI footer on every page or at the end of the document.
- Video and audio should be marked with the SSI header and footer on the protective cover when able and the header and footer should be shown and/or read at the beginning and end of the program.
- CDs/DVDs should be encrypted or password-protected and the header and footer should be affixed to the CD/DVD.
 - Portable drives including "flash" or "thumb" drives should not themselves be marked, but the drive itself should be encrypted or all SSI documents stored on it should be password protected.
 - When leaving your computer or desk you must lock all SSI and you should lock or turn off your computer.
 - Taking SSI home is not recommended. If necessary, get permission from a supervisor and lock all SSI at home.
 - Do not handle SSI on computers that have peer-to-peer software installed on them or on your home computer.
 - Transmit SSI via email only in a password protected attachment, not in the body of the email. Send the password without identifying information in a separate email or by phone.
 - Passwords for SSI documents should contain at least eight characters, have at least one uppercase and one lowercase letter, contain at least one number, one special character and not be a word in the dictionary.
 - Faxing of SSI should be done by first verifying the fax number and that the intended recipient will be available promptly to retrieve the SSI.
 - SSI should be mailed by U.S. First Class mail or other traceable delivery service using an opaque envelope or wrapping. The outside wrapping (i.e. box or envelope) should not be marked as SSI.
 - Interoffice mail should be sent using an unmarked, opaque, sealed envelope so that the SSI cannot be read through the envelope.
 - SSI stored in network folders should either require a password to open or the network should limit access to the folder to only those with a need to know.
 - Properly destroy SSI using a cross-cut shredder or by cutting manually into less than ½ inch squares.
 - Properly destroy electronic records using any method that will preclude recognition or reconstruction.
 - Maintain an up-to-date record of all SSI Documents and list of persons with access to SSI Documents.

C. When transmitting SSI, the SSI marking must be applied to the transmittal document (letter, memorandum, or fax). The transmittal document must contain, if applicable, a disclaimer noting that it is no longer SSI when it is detached from the SSI it is transmitting (transmittal e-mails do not need to contain this disclaimer), and a warning that if received by an unintended or different recipient, the sender must be notified immediately.

D. When discussing or transmitting SSI to another individual(s), OHS Covered Persons must ensure that the individual with whom the discussion is to be held, or the information is to be transferred has a valid Need-to-know. In addition, OHS Covered Persons must ensure that precautions are taken to prevent unauthorized individuals from overhearing the conversation, observing the materials, or otherwise accessing the information.

E. SSI shall be mailed in a manner that offers reasonable protection of the sent materials and sealed in such a manner as to prevent inadvertent opening and show evidence of tampering.

F. SSI may be mailed by U.S. Postal Service First Class Mail or an authorized commercial delivery service such as DHL or Federal Express.

G. SSI may be entered into an inter-office mail system provided it is afforded sufficient protection to prevent unauthorized access, e.g., sealed envelope.

ARTICLE 9-NOTICES

9.1 Consultant

All notices required to be given to the Consultant hereunder shall be in writing and shall be given by United States mail, postage prepaid, or by electronic mail addressed to the Consultant's Representative as defined in **Exhibit "A."** Neither facsimile nor instant messaging shall be considered notice as required hereunder.

9.2 Owner

All notices required to be given to the Owner under this Agreement shall be in writing and may be delivered by manual delivery, electronic mail, or by United States mail with postage prepaid. Such notices shall be addressed to the designated Representative of the **Town of Eatonville** at the address or email provided by the Owner for this purpose.

9.3 Change of Address

Any party may change its address for the purposes of this Article by written notice to the other party given in accordance with the requirements of this Article.

ARTICLE 10 -REMEDIES

10.1 Attorney's Fees and Costs

All remedies provided in this Agreement shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to any party at law or in equity. In the event one party shall prevail in any action (including appellate proceedings), at law or in equity arising hereunder, the losing party will pay all costs, expenses, reasonable attorneys' fees and all other actual and reasonable expenses incurred in the defense and/or prosecution of any legal proceeding, including, but not limited to, those for paralegal, investigative and legal support services and actual fees charged by expert witnesses for testimony and analysis, incurred by the prevailing party referable thereto.

10.2 Claims

Any claim, dispute or other matter in question arising out of or relating to this Agreement or the breach thereof shall, as an express condition precedent to suit, first be subject to mandatory mediation to be set at a mutually agreeable time, but in no event greater than thirty (30) days after the claim or dispute arises. Action on any unresolved claim or dispute shall be brought only in the Circuit Court of the Ninth Judicial District in and for Orange County, Florida or in the sole discretion of the Owner, non-binding arbitration under the auspices of the American Arbitration Association. The parties hereby agree that process may be served on the Consultant and the Owner by Certified United States Mail, postage prepaid, addressed to the Owner's Representative or the Consultant's Representative as defined in **Exhibit "A."** The parties hereby consent to the jurisdiction of the Circuit Court of the Ninth Judicial District in and for Orange County, Florida.

10.3 Governing Law

The Agreement shall be governed by the laws of Florida.

10.4 Successors and Assigns

The Consultant binds itself, its successors, assigns and legal representatives to the Owner and the Owner's successors, assigns and legal representatives in respect to covenants, agreements and obligations contained in the Agreement and any Addenda. The Consultant shall not assign the Agreement or any Addenda in whole or in part without written consent of the Owner.

ARTICLE 11-PROHIBITION AGAINST CONTINGENT FEES

The Consultant represents and warrants to the Owner that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the

Consultant, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement, and that it has not agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out this Agreement.

ARTICLE 12- TRANSFERS AND ASSIGNMENTS

The Consultant shall not transfer or assign any of its rights hereunder (except for transfers that result from the merger or consolidation of the Consultant with a third party) or (except as otherwise authorized in this Agreement or in an Addendum hereto) subcontract any of its obligations hereunder to third parties without the prior written approval of the Owner. The Owner shall be entitled to withhold such approval for any reason or for no reason. Except as limited by the provisions of this paragraph, this Agreement shall inure to the benefit of and be binding upon the Owner and the Consultant, and their respective successors and assigns.

ARTICLE 13 -WAIVER OF CLAIMS

The Consultant and the Owner hereby mutually waive any claims against each other, their members, officers, agents and employees for damages (including damages for loss of anticipated profits) caused by any suit or proceedings brought by any third party directly or indirectly attacking the validity of this Agreement or any part thereof, or any Addendum hereto, or arising out of any judgment or award in any suit or proceeding declaring this Agreement or any Addendum hereto null, void, or voidable or delaying the same, or any part thereof, from being carried out; provided, however, that this waiver shall not prevent the Consultant from seeking to recover the reasonable value of the Services rendered by the Consultant prior to the entry of such judgment or award.

ARTICLE 14 - MEMBER PROTECTION

No recourse under or upon any obligation, covenant or agreement contained in this Agreement, or any other agreements or documents pertaining to the Services of the Consultant or any Subconsultant hereunder, as such may from time to time be altered or amended in accordance with the provisions hereof, or under any judgment obtained against the Owner or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any statute or otherwise, under or independent of this Agreement, shall be had against any member, officer, employee or agent, as such, past, present or future, of Owner either directly or through Owner or otherwise, for any claim arising out of this Agreement or the Services rendered pursuant to it, or for any sum that may be due and unpaid by the Owner. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any Owner member, officer, employee or agent as such, to respond by reason of any act or omission on his or her part or otherwise for any claim arising out of this Agreement for the Services rendered pursuant to it, or for the payment for or to the Owner, or

any receiver therefore or otherwise, of any sum that may remain due and unpaid by the Owner, is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement.

ARTICLE 15 -INDEMNIFICATION AND INSURANCE

15.1 Consultant's Obligations for Indemnification

15.1.1 To the fullest extent permitted by law, the Consultant shall defend, indemnify and hold harmless the Owner, its officers, directors, agents and employees and all members of the governing board, from and against any and all claims, suits, demands, judgements, liabilities (including statutory liabilities under Workers Compensation laws), damages, actions or proceedings, losses, and costs, fines, and penalties including, but not limited to, reasonable attorneys' fees, investigation costs, and expert or consultant costs, ("Damages") to the extent caused in whole or in part by the negligence, recklessness, intentionally wrongful conduct, or improper acts, errors or omissions of the Consultant, any Subconsultant, and any of their officers, director, partners, or any persons directly or indirectly employed by or any person acting on behalf of the Consultant in the performance the Services, duties and responsibilities provided in this Agreement.

15.1.2 This indemnification shall survive the expiration or termination of this Agreement.

15.1.3 If the indemnification provisions recited in Article 15.1.1 are deemed to be void in whole or in part under Florida law, then the Consultant shall indemnify Owner, its officers, directors, employees and members of its governing board in accordance with, and to the fullest extent permitted by, the obligations and limitations set forth in Florida Statute 725.08.

15.2 Notice of Claims

Each party agrees to give the other party reasonable notice of any suit or claim for which indemnification will be sought hereunder, to allow the other party or its insurer to compromise and defend the same to the extent of its interests, and to reasonably cooperate with the defense of any such suit or claim. Furthermore, Consultant shall notify the Owner and document in detail any matter resulting from the performance of Services that may give rise to a claim by a third party against Owner, Consultant and/or Subconsultant. Consultant shall cooperate with Owner and its agents or representative, in the investigation and resolution of any incident that may give rise to a claim or actual claim made against Owner, Consultant or Subconsultant of any tier arising directly or indirectly from this Agreement. Any action taken by Consultant, Subconsultant, or its insurer to resolve, settle or release itself from a claim shall be coordinated

with Owner. No release shall be executed without final approval from Owner, which shall not be unreasonably withheld.

15.3 Survival of Indemnity Provisions

The indemnification provisions of this Article 15 shall survive the expiration or termination of this Agreement with respect to any acts or omissions occurring during the term of this Agreement and shall not be affected or reduced by any information with which the Owner has been provided or may otherwise obtain in the future.

15.4 Employee Benefit Acts

In any and all claims against either party, or any of their partners, officers, directors, stockholders, members, agents, servants or employees, by any employee of the other party, any subconsultant of such party, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligations under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefit payable by or for the employing or responsible party under Workers' Compensation Acts, disability benefit acts or other employee benefit acts.

15.5 Consultant's Insurance Requirements

At its sole expense, the Consultant shall maintain the following insurance throughout the term of this Agreement, including any extensions or renewals, and such insurance requirements shall provide coverage for the Consultant, its subconsultants, representatives, and anyone directly or indirectly employed by any of them, or by anyone whose acts any of them may be liable.

15.5.1 COMMERCIAL GENERAL LIABILITY insurance covering property damage and bodily injury (including death), contract liability with limits of liability no less than the amount set forth in **Exhibit E**, which shall include, but not be limited to, premises, products and completed operations, and contractual liability coverage for the Consultant's covenants to and indemnification of the Owner under this Agreement.

15.5.2 AUTOMOBILE LIABILITY insurance covering motor vehicles, including, but not limited to owned, non-owned, and hired vehicles, used in conjunction with the Services with limits of liability no less than the amount set forth in **Exhibit E**, for death or bodily injury and for damage to property, each occurrence.

15.5.3 WORKERS COMPENSATION in statutory limits in accordance with the laws of Florida and EMPLOYER'S LIABILITY insurance covering Consultant and its employees or persons acting at the direction of consultant in the performance of Services in the amount as set forth in **Exhibit E**.

15.5.4 PROFESSIONAL LIABILITY insurance covering Consultant for claims, losses and expenses resulting from wrongful acts, errors or omissions committed in the performance of, or

failure to perform, all Services under this Agreement with limits of liability in the amount as set forth in **Exhibit E**.

15.5.5 OTHER INSURANCE REQUIREMENTS: Consultant agrees to the following as it relates to all insurance requirements:

15.5.5.1 The Consultant shall include the following as additional insured under the Commercial General Liability and Auto Liability coverages, including any excess policies: the Town of Eatonville, including its Mayor, Town Council members, officers, agents, employees, and any members of advisory committees designated by the Town

15.5.5.2 Self-Insured Retention and Deductibles. Consultant's insurance policies shall not be subject to a self-insured retention or deductible exceeding \$10,000, if the value of this Agreement is less than \$1,000,000, and not be subject to a self-insured retention or deductible exceeding \$100,000, if this Agreement is \$1,000,000 or more, unless approved by the Owner's Mayor. The above deductible limits may be exceeded if the Consultant's insurer is required to pay claims from the first dollar at 100% of the claim value without any requirement that Consultant pay the deductible prior to its insurer's payment of the claim.

15.5.5.3 Insurance policies shall be primary insurance and not contributory to any other valid insurance Owner may possess, and that any other insurance Owner does possess shall be considered excess insurance only.

15.5.5.4 The Consultant shall maintain insurance coverage with an insurance company or companies that have a financial stability rating of **B+ VI or better**, as rated by **A.M. Best** or an equivalent rating agency. All insurance policies must be in a form acceptable to the **Town of Eatonville** and shall provide sufficient coverage to address the risks associated with the scope of work under this Agreement. Proof of insurance coverage must be provided to the Town upon request and prior to the commencement of any work

15.5.5.5 Any liability insurance maintained by Consultant written on a claims-made form basis will maintain coverage for two (2) years to cover claims made after the Consultant has concluded its services to Owner.

15.5.5.6 All insurance required for this Contract shall contain a waiver of subrogation clause, as allowed by law, in favor of Owner.

15.5.5.7 A properly completed and executed Certificate of Insurance on a form provided or approved by Owner (such as a current ACORD form) evidencing the insurance coverages required by this Section shall be furnished to the Owner prior to the effective date of this Agreement or prior to any start of services, whichever comes first, and each renewal thereafter during the term of this Agreement and its renewal/extension. Consultant acknowledges that any acceptance of Certificate of Insurance by Owner does not waive any obligations herein this Agreement.

15.5.5.8 The Owner will designate a representative to manage all insurance certificates related to Owner Contracts. Consultants will be contacted directly by the designated representative for matters such as submitting initial insurance certificates, providing updates, or addressing expired certificates. Written instructions will be provided to the Consultant detailing the proper procedures for submitting and maintaining updated insurance certificates, as well as handling any other insurance-related matters that may arise over the term of this Agreement.

15.5.5.9 The Consultant shall provide the Owner immediate written notice of any adverse material change to the Consultant's required insurance coverage. For purposes of this Insurance Section, an "adverse material change" shall mean any reduction in the limits of the insurer's liability, any reduction of any insurance coverage, or any increase in the Consultant's self-insured retention and any non-renewal or cancellation of required insurance.

15.5.5.10 If any insurance coverage is canceled or reduced, Consultant shall, within forty-eight (48) hours remit to Owner a Certificate of Insurance showing that the required insurance has been reinstated or replaced by another insurance company or companies acceptable to Owner. If Consultant fails to obtain or have such insurance reinstated, Owner may, if it so elects, and without waiving any other remedy it may have against Consultant, immediately terminate this Agreement upon written notice to Consultant.

15.5.5.11 The Owner's designated representative, such as the Mayor or Town Manager, shall have the right to alter the monetary limits or coverages herein specified from time to time during the term of this Agreement. The Consultant shall comply with all reasonable requests of the designated representative with respect thereto.

15.5.5.12 The Consultant is ultimately liable to the Owner for those actions of its Subconsultants providing Services on assigned work. It is the Consultant's responsibility to ensure that its Subconsultants are also covered under the required insurance limits. The Consultant may either require its Subconsultants to purchase insurance coverage set forth herein individually or include the Subconsultant under the Consultant's insurance program.

ARTICLE 16-APPROVAL BY FEDERAL AND STATE AGENCIES

The Owner agrees to use its best efforts to obtain approval of this Agreement and any Addenda hereto from Federal and/or State agencies to the extent required by law or regulation. If the Owner determines that modifications to this Agreement or any Addenda hereto are required to qualify for State or Federal funding for the Consultant's Services, and if the Consultant shall fail to consent to such modifications, or if the Consultant is unable to comply within a reasonable time with applicable Federal or State laws and regulations governing the grant of such funds for Services, the Owner shall have the right to terminate this Agreement or any such Addenda hereto.

ARTICLE 17 - FEDERAL PROVISIONS

17.1 Civil Rights Act of 1964, Title VI

The Consultant for itself, its successors in interest and assigns, as a part of the consideration hereof, does hereby covenant and agree that:

17.1.1 Compliance with Regulations. The Consultant shall comply with the Title VI List of Pertinent Nondiscrimination Acts and Authorities and the Acts (identified herein), as they may be amended from time to time, which are herein incorporated in full by reference and made a part of this Agreement.

17.1.2 Nondiscrimination. The Consultant, with regard to the work performed during the Agreement, shall not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of Subconsultants, including procurements of materials and leases of equipment. The Consultant shall not participate directly or indirectly in the discrimination prohibited by the Acts and Regulations.

17.1.3 Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, the Consultant shall notify potential Subconsultants or suppliers of the Consultant's obligations under this Agreement and the Nondiscrimination Acts

17.1.4 Information and Reports. The Consultant shall provide all required information and reports under the Nondiscrimination Acts and Regulations and permit access to its records by the Town of Eatonville or any designated federal agency to ascertain compliance.

17.1.5 Sanctions for Noncompliance. In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Town of Eatonville shall impose such contract sanctions as it determines to be appropriate, including, but not limited to:

- a. Withholding of payments to the Consultant under the Agreement until the Consultant complies; and/or
- b. Cancellation, termination, or suspension of the Agreement, in whole or in part

17.1.6 Incorporation of Provisions. The Consultant shall include the provisions of paragraphs 17.1.1 through 17.1.5 in every subcontract and procurement, unless exempt by applicable laws or regulations

17.2 General Civil Rights Provision. The Consultant agrees to comply with pertinent statutes, Executive Orders, and such rules to ensure no person shall, on the grounds of race, color, national origin, sex, age, or disability, be excluded from participation in any activity conducted with or benefiting from federal assistance. This provision binds all Subconsultants and subcontractors

17.3 (a) Certification Regarding Debarment and Suspension (Non-Procurement) The Consultant certifies that neither it nor its principals are presently debarred, suspended, or declared ineligible by any federal department or agency. The Consultant agrees to administer lower-tier subcontracts exceeding \$25,000 as “covered transactions” and verify that no subcontractor is debarred or suspended

17.4 Clean Air and Water Pollution Control

The Consultant agrees to comply with applicable provisions of the Clean Air Act (42 U.S.C. §7401) and the Federal Water Pollution Control Act (33 U.S.C. §1251). Violations must be reported to the Owner and the Environmental Protection Agency (EPA)

17.5 Contract Workhours and Safety Standards Act Requirements

This provision applies if the Agreement exceeds \$100,000. The Consultant shall ensure no worker is required to work more than 40 hours per week without appropriate overtime pay. Violations may result in liability for unpaid wages and liquidated damages.

17.6 Energy Conservation Requirements

The Consultant and all Subconsultants agree to comply with mandatory standards relating to energy efficiency under the Energy Policy and Conservation Act (42 U.S.C. §6201 et seq.). Consultant must include the substance of this clause in all sub-tier contracts.

17.7 Equal Opportunity Clause

The Consultant agrees to provide equal employment opportunities and comply with Executive Order 11246. This includes affirmative action measures for minority groups and women. Noncompliance may result in termination or suspension of the Agreement

17.8 Federal Fair Labor Standards Act

The Consultant shall adhere to the provisions of the Fair Labor Standards Act (FLSA), ensuring compliance with minimum wage, overtime, and record-keeping standards.

17.9 Occupational Safety and Health Act of 1970

The Consultant shall ensure a safe work environment free from recognized hazards under OSHA regulations (29 CFR Part 1910). The Consultant remains responsible for its Subconsultants' compliance

17.10 Procurement of Recovered Materials

The Consultant and Subconsultants agree to comply with Section 6002 of the Solid Waste Disposal Act, prioritizing the use of products containing recovered materials as designated by the EPA. Exceptions must be justified if materials are unavailable, fail to meet performance standards, or are unreasonably priced

17.11 Veteran's Preference

In the employment of labor (excluding executive, administrative, and supervisory positions), the Consultant and all Subconsultants must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

ARTICLE 18- CONTRACTS AND MINORITY/WOMEN BUSINESS ENTERPRISE (MWBE) REQUIREMENTS

18..1 Documentation for Contracts The Consultant shall provide the following documentation to the Town of Eatonville prior to the award of any contracts related to the project:

- Proof of Advertisement: Evidence that the procurement opportunity was advertised publicly in a manner that encourages broad participation.
- Certification of Good Faith Efforts: Documentation that the Consultant made good faith efforts to solicit and engage participation from certified Minority/Women Business Enterprises (MWBE) as outlined by the State Revolving Fund (SRF) program.
- MWBE Utilization Plan: A detailed plan specifying the anticipated use of MWBE firms, including their roles and projected percentages of contract participation.

18.2 The Town of Eatonville encourages the participation of MWBE firms in accordance with the SRF program requirements. While specific goals are not mandated, the Consultant is expected to:

1. Demonstrate meaningful outreach to MWBE firms in the solicitation process.
2. Actively engage MWBE firms in subcontracting opportunities, procurement of materials, or other project-related activities.
3. Maintain records of all communications and efforts to engage MWBE firms.

18.3 The Consultant shall:

1. Submit periodic reports detailing MWBE participation, including the names of MWBE firms, the nature of their work, and the dollar amounts of their contracts.
2. Allow the Town of Eatonville to review and verify MWBE participation records upon request.
3. Cooperate with the Town or the State in any audits or compliance reviews related to MWBE participation

18.4 Subcontractor Obligations the Consultant shall include MWBE requirements in all subcontracts and ensure that subcontractors comply with these obligations. Failure to adhere to MWBE requirements may result in sanctions, including withholding of payments or termination of the Agreement.

ARTICLE 19 -MISCELLANEOUS PROVISIONS

19.1 Conflict of Interest

Except with the Owner's knowledge and consent, the Consultant and Subconsultants shall not undertake Services which would reasonably appear that such Services could compromise the Consultant's professional judgment or prevent the Consultant from serving the best interests of the Owner.

19.2 Owner Member, Officer or Employee

No member, officer, or employee of the Owner during their tenure shall have any interest, direct or indirect, in this Agreement or its proceeds. Additionally, no member, officer, or employee of the Owner, including any newly appointed or hired individual during the term of this Agreement, shall have any interest, direct or indirect, in any portion of this Agreement or its proceeds for a period of one year after the termination of their employment or affiliation with the Owner.

19.3 Consultant Assurances

Consultant covenants that it will insert the above provisions 19.2 and 19.3 in each of its subcontracts relating to the Services.

19.4 Headings

The headings of the sections of this Agreement are for the purpose of convenience only and shall not be deemed to expand or limit the provisions contained in such sections.

19.5 Entire Agreement

This Agreement, including the exhibits hereto, constitutes the entire agreement between the parties and shall supersede and replace all prior agreements or understandings, written or oral, relating to the matters set forth herein.

19.6 Amendment

This Agreement and said exhibits shall not be amended, supplemented or modified other than in writing signed by the parties hereto. Neither electronic mail nor instant messaging shall be considered a "writing" for purposes of amending, supplementing or modifying this Agreement. No Additional Services shall be performed until such Additional Services are provided for in an Amendment or Addenda and executed by both parties.

19.7 Validity

The validity, interpretation, construction and effect of this Agreement shall be in accordance with and be governed by the laws of Florida. In the event any provision hereof shall be finally determined to be unenforceable, or invalid, such unenforceability or invalidity shall not affect the remaining provisions of this Agreement which shall remain in full force and effect.

19.8 Public Entity Crimes and Owner's Debarment List

Pursuant to Section 287.133(2)(a), Florida Statutes, a Consultant who has been placed on the Convicted Vendor List following a conviction for a public entity crime may not submit a bid on a contract to provide services for a public entity, may not be awarded a Consultant contract, and may not transact business with a public entity for services exceeding the threshold amount provided in Section 287.017 for CATEGORY TWO for a period of 36 months from the date of being placed on the Convicted Vendor List. The Consultant hereby represents that it does not fall within the class of persons identified in the previous sentence and is therefore not precluded from entering into this Agreement.

Further, any entity or individual placed on the **Town of Eatonville's Debarment List** pursuant to the Town's policies may not submit a response to any letter of intent, letter of interest, statement of qualifications, quote, proposal, or bid as a contractor, supplier, subcontractor, consultant, or individual of any tier, for any goods or services or contracts. Such entities or individuals may not provide any goods or services to the Town of Eatonville, on behalf of the Town, or on Town property, regardless of whether there is a contractual relationship with the Town.

The Town of Eatonville will disqualify any submission, bid, or proposal that includes a person or entity on the Town's Debarment List.

19.9 No Third-Party Beneficiaries

No person shall be deemed to possess any third-party beneficiary rights pursuant to this Agreement. It is the intent of the parties hereto that no direct benefit to any third party is intended or implied by the execution of this Agreement.

19.10 Consultant Contractual Authorization

Consultant represents and warrants that the execution and delivery of the Agreement and the performance of the acts and obligations to be performed have been duly authorized by all necessary corporate (or if appropriate, partnership) resolutions or actions and the Agreement does not conflict with or violate any agreements to which Consultant is bound, or any judgment, decree or order of any court.

19.11 Whistle Blower Reporting Line

The Owner is committed to the highest level of integrity in its operations and to protecting the organization, its operations, and its assets against fraud, waste, and abuse. To support this commitment, the Town provides multiple channels for reporting suspected fraud, waste, or abuse related to Town resources or operations.

Should the Consultant suspect any fraud, waste, or abuse in connection with any Work under this Agreement, including the actions of its subcontractors or laborers, the Consultant shall promptly report such activity through one of the following methods:

1. Code Enforcement: Contact the Code Enforcement Officer at (407) 623-8908 or email code-enforcement@townofeatonville.org.
2. General Contact: Call the Town of Eatonville directly at (407) 623-8900 or visit Town Hall at 307 East Kennedy Blvd., Eatonville, FL 32751.

The Consultant shall include this reporting requirement in all subcontracts and vendor agreements to ensure awareness and compliance. Additionally, the Consultant is encouraged to report any suspected fraud, waste, or abuse it becomes aware of in connection with other Town of Eatonville operations or projects.

Failure to report known or suspected fraud, waste, or abuse may result in sanctions, including termination of this Agreement.

19.12 Owner's Additional Provisions

The Owner may from time to time adopt additional or amended nondiscrimination provisions concerning the furnishing of Services to the Owner, and the Consultant agrees that it will adopt and be bound by any such requirements as a part of this Agreement.

ARTICLE 20-- SPECIAL PROVISIONS, EXHIBITS AND DOCUMENTS

The following Exhibits are attached to and made a part of this Agreement:

Exhibit A, Related Documents

Exhibit B, Notice of Professional Services (Advertisement)

Exhibit C, Invoice Instructions and Forms

Exhibit D, Owner's Travel Policy

Exhibit E, Insurance Limits

SCRUTINIZED COMPANY CERTIFICATIONS

A. (applicable to all agreements, regardless of value) -- Consultant hereby certifies that it is not on the Scrutinized Companies that Boycott Israel List and is not engaged in a boycott of Israel, as defined in Florida Statutes § 287.135, as amended;

AND

B. (applicable to agreements that may be \$1,000,000 or more) - Consultant hereby certifies that it is: (1) not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as defined in Florida Statutes § 287.135; and (2) not engaged in business operations in Cuba or Syria, as defined in Florida Statutes § 287.135, as amended.

IN WITNESS WHEREOF, the parties hereto, by their duly authorized representatives, have executed this Agreement and affixed their corporate seals, effective as of the date set forth above.

The parties hereto have executed this Agreement as of the date first above written.

GCI, Inc.

By: _____

Name: _____

Title: _____

Date: _____

Town of Eatonville, FL

By:

Name:

Title: _____

Date: