
Amendment No. 1 to Agreement

This Amendment No. 1 to Agreement for Consulting Services ("Agreement"), is entered into as of this 31st day of January 2023, by and between INDIAN RIVER COUNTY SOLID WASTE DISPOSAL DISTRICT (SWDD), a Political Subdivision of the State of Florida organized and existing under the Laws of the State of Florida, (hereinafter called SWDD) and Kessler Consulting, Inc. (hereinafter called CONSULTANT). SWDD and CONSULTANT, in consideration of the mutual covenants hereinafter set forth, agree as follows:

BACKGROUND RECITALS

- A. SWDD has requested the services of CONSULTANT for Franchise Collection Procurement Assistance.
- B. Whereas, on November 15, 2022, the SWDD Board approved the Agreement to the CONSULTANT for the Franchise Collection Procurement Assistance per scope of work dated October, 28, 2022 in the total amount of \$119,850.
- C. Whereas, SWDD and CONSULTANT wish to under Amendment No. 1 engage in additional Scope of Work for the services as follows and summarized in the following table.

Pursuant to the agreement between SWDD and CONSULTANT, which allows for Additional Technical Services which includes "Modifications or adjustments to the Generation and Rate Study models" this change request is intended to provide additional services to SWDD in providing additional analysis of rate study variables including the costs of the new collection contract as well as providing presentations and other information as needed to assist in acceptance of the rate study's results and objectives. These additional services will be provided on a time-and-material basis.

TASK	DESCRIPTION	AMOUNT
Task 6	Procurement and Generation / Rate Study Analysis	\$20,000
TOTAL =		\$20,000

- D. The CONSULTANT is willing and able to perform the Services for SWDD on the terms and conditions set forth below; and
- E. SWDD and the CONSULTANT wish to enter into this Agreement for the CONSULTANT's Services.

NOW THEREFORE, in accordance with the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

SWDD OBLIGATIONS

- 1. SWDD shall provide all available information requested by CONSULTANT in a reasonable amount of time.
- 2. The CONSULTANT shall not be considered in default for a failure to perform if such failure arises out of causes reasonably beyond the CONSULTANT's control and through no fault or negligence of the CONSULTANT. The parties acknowledge that adverse weather conditions, acts of God, or other unforeseen circumstances of a similar nature, may necessitate modifications to this Agreement. If such conditions and circumstances do in fact occur, then SWDD and CONSULTANT shall mutually agree, in writing, to the modifications to be made to this Agreement.

CONSULTANT RESPONSIBILITIES

1. The CONSULTANT agrees to perform all necessary Services in connection with the work.
2. The CONSULTANT will endeavor not to duplicate any previous work completed.
3. The CONSULTANT agrees to complete the Project within the time frame specified in Exhibit A.
4. The CONSULTANT will maintain an adequate staff of qualified personnel.
5. The CONSULTANT will comply with all present and future federal, state, and local laws, rules, regulations, policies, codes, and guidelines applicable to the Services performed under this Agreement.
6. The CONSULTANT shall not assign or transfer any work under this Agreement without the prior written consent of SWDD.
7. CONSULTANT is registered with and will use the Department of Homeland Security's E-Verify system (www.e-verify.gov) to confirm the employment eligibility of all newly hired employees for the duration of this agreement, as required by Section 448.095, F.S. Consultant is also responsible for obtaining proof of E-Verify registration and utilization for all subconsultants.

TERM; DURATION OF AGREEMENT

This Agreement shall commence on November 15, 2022, and remain in full force and effect until September 30, 2025.

COMPENSATION AND PAYMENT

1. SWDD shall pay CONSULTANT for completion of work, at the prices stated in Exhibit A. Invoices shall be prepared and submitted monthly.
2. All payments for services shall be made to the CONSULTANT by SWDD, in accordance with the Florida Prompt Payment Act, as may be amended from time to time (Section 218.70, Florida Statutes, et seq.).

TERMINATION

1. This Agreement may be terminated for convenience at any time by either Party, provided the requesting Party provides the other with 30 days written notice. If either Party fails to perform any of its duties or obligation or shall violate any of the prohibitions imposed upon it under this Agreement, or shall be dissolved or be adjudged bankrupt or shall have a petition in bankruptcy filed against it, or shall make a general assignment for the benefit of creditors, or if a receiver shall be appointed for a Party, the other Party may terminate this Agreement, without prejudice to any other rights or claims which it may have under this Agreement, on written notice to the other Party and fifteen (15) business days opportunity to cure such breach. In any event, SWDD shall pay all fees due and expenses incurred for Services rendered through the date of termination.
2. In the event of termination of this Agreement, the CONSULTANT agrees to surrender any and all documents prepared by the CONSULTANT for SWDD in connection with this Agreement.
3. CONSULTANT certifies that it and those related entities of consultant as defined by Florida law are not on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 of the Florida Statutes, and are not engaged in a boycott of Israel. SWDD may terminate this Contract if CONSULTANT, including all wholly owned subsidiaries, majority-owned subsidiaries, and parent companies that exist for the purpose of making profit is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as set forth in section 215.4725, Florida Statutes.

MISCELLANEOUS

1. CONSULTANT shall indemnify and hold harmless the SWDD, and its officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the

extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT and persons employed or utilized by the CONSULTANT in the performance of the Work.

2. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon SWDD and CONSULTANT, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.
3. This Agreement shall be governed by the laws of the State of Florida. Venue for any lawsuit brought by either party against the other party or otherwise arising out of this Agreement shall be in Indian River County, Florida, or, in the event of a federal jurisdiction, in the United States District Court for the Southern District of Florida.
4. Indian River County SWDD is a public agency subject to Chapter 119, Florida Statutes. The CONSULTANT shall comply with Florida's Public Records Law. Specifically, the CONSULTANT shall:
 - (1) Keep and maintain public records required by the SWDD to perform the service.
 - (2) Upon request from the SWDD's Custodian of Public Records, provide the SWDD with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law.
 - (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONSULTANT does not transfer the records to the SWDD.
 - (4) Upon completion of the contract, transfer, at no cost, to the SWDD all public records in possession of the CONSULTANT or keep and maintain public records required by SWDD to perform the service. If the CONSULTANT transfers all public records to SWDD upon completion of the contract, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to SWDD, upon request from the Custodian of Public Records, in a format that is compatible with the information technology systems of SWDD.

IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

(772) 226-1424

publicrecords@ircgov.com

Indian River County Office of the County Attorney

1801 27th Street

Vero Beach, FL 32960

- (5) Failure of the CONSULTANT to comply with these requirements shall be a material breach of this Agreement.

IN WITNESS WHEREOF, SWDD and CONSULTANT have signed this Agreement in duplicate. One counterpart each has been delivered to SWDD and CONSULTANT. All portions of the Contract Documents have been signed or identified by SWDD and CONSULTANT or on their behalf.

INDIAN RIVER COUNTY SWDD:

By: _____
Joseph H. Earman, Chairman

By: _____
Michael C. Zito, Interim County Administrator

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

By: _____
Dylan Reingold, County Attorney

Jeffrey R. Smith, Clerk of Court and Comptroller

Attest: _____
Deputy Clerk

(SEAL)

Designated Representative:
Himanshu Mehta, Managing Director
1325 74th Ave SW
Vero Beach, FL 32968
(772) 226-3211
hmehta@ircgov.com

CONSULTANT:

By: _____
Mitch Kessler, President, Kessler Consulting, Inc.

(CORPORATE SEAL)

Attest _____

Designated Representative:
Mitch Kessler, President
14620 N. Nebraska Ave, Building D
Tampa, FL 33613
(813) 971-8333
mk@kesconsult.com

(If CONSULTANT is a corporation or a partnership, attach evidence of authority to sign.)