



V I L L A G E O F K E Y B I S C A I Y N E

Office of the Village Manager



MEMORANDUM

Village Council
Mayra P. Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*
Luis F. de La Cruz
Theodore Holloway
Michael E. Kelly
Edward London
James Taintor

Village Manager
John C. Gilbert

DATE: May 12, 2015
TO: Honorable Mayor and Members of the Village Council
FROM: John C. Gilbert, Village Manager
RE: Award of Professional Engineering Services to EAC Consulting, Inc. for Stormwater Improvement Implementation Plan

RECOMMENDATION

It is recommended that the Village Council approve the attached Resolution selecting EAC Consulting, Inc. for Engineering Services of Task 1 (Data Collection and Evaluation) of the Stormwater Improvement Implementation Plan in an amount not to exceed \$172,118.40.

BACKGROUND

At the direction of the Village Council at the Council Meeting of January 27, 2015, Staff was directed to negotiate with EAC Consulting, Inc. for professional engineering services regarding the Stormwater Improvement Implementation Plan. Our Consultant has recommended to divide the process in two tasks. The first task (Task 1- Exhibit A) involves the data collection and evaluation of the problems areas throughout the island. The second task (Task 2) consists of the design of the stormwater improvements. At this time, Task 2 (Design) cannot be scoped and negotiated until a complete analysis of the system has been completed.

Funding for Task 1 will come from the Stormwater Enterprise Fund- Stormwater Implementation Plan Refinanced Loan.

Reviewed by Ms. Lilian Arango from Weiss Serota Helfman Pastoriza Cole & Boniske as to form and legal sufficiency.

RESOLUTION NO. 2015-

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING THE PROPOSAL OF EAC CONSULTING, INC. FOR ENGINEERING SERVICES FOR TASK 1 OF THE STORMWATER IMPROVEMENT IMPLEMENTATION PLAN; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AN AGREEMENT FOR SUCH SERVICES; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne (“Village”) issued Request for Qualifications No. 2014-02 (“RFQ”) for a stormwater improvement implementation plan, in order to provide for the planning, engineering and administration of construction of stormwater infrastructure improvements within the Village; and

WHEREAS, the Village wishes to commence Task 1 of the services which consists of hydraulic and hydrologic analyses and evaluation of the Village’s storm watershed, including data collection, analyses and evaluation in order to establish improvements required for stormwater management (the “Services”); and

WHEREAS, in response to the RFQ, EAC Consulting, Inc. (“Consultant”) submitted a response and proposal for the Services requested, which proposal is attached hereto as Exhibit “A” (the “Proposal”); and

WHEREAS, after review and evaluation of the proposals submitted in response to the RFQ, the Village Manager recommends that Consultant be selected to perform the Services; and

WHEREAS, the Village Council desires to select the Proposal and award an agreement to Consultant for the Services, and authorize the Village Manager to execute a Professional Services Agreement (the “Agreement”) consistent with the Proposal attached hereto as Exhibit “A” and substantially in the form of Agreement attached hereto as Exhibit “B”; and

WHEREAS, the Village Council finds that it is in the best interest of the Village to approve the Proposal of Consultant and authorize and award the Agreement for the Services, and proceed as indicated in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. **Recitals Adopted.** That each of the recitals stated above is hereby adopted and confirmed.

Section 2. **Consultant Selected.** The Village Council hereby selects the Consultant for the Services pursuant to the Proposal attached hereto as Exhibit “A.”

Section 3. **Village Manager Authorized.** The Village Manager is hereby authorized to enter into an Agreement with the Consultant for the Services, consistent with the Proposal attached hereto as Exhibit “A”, and substantially in the form of Agreement attached hereto as Exhibit “B”, subject to final approval as to form, content, and legal sufficiency by the Village Attorney.

Section 4. **Implementation.** That the Village Manager is hereby authorized to take any and all action which is necessary to implement the Proposal for the Services and the Agreement in accordance with the purposes of this Resolution.

Section 5. **Effective Date.** That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this ____ day of May, 2015.

MAYOR MAYRA PEÑA LINDSAY

ATTEST:

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

VILLAGE ATTORNEY

EXHIBIT "A"

STATEMENT OF WORK VILLAGE OF KEY BISCAYNE (VKB) IMPLEMENTATION OF STORMWATER MASTERPLAN (SWMP) VKB RFQ NO.14-02 EAC PROJECT NO: C15008SD01.00

1.0 INTRODUCTION / BACKGROUND

The Village of Key Biscayne (VKB) encompasses 850 acres and is characterized by terrain topography that is predominantly flat and low lying in relation to sea level. The elevations of the roadways are approximately 3.5 feet to nearly 6 feet above mean sea level (MSL) which only provides a buffer of 2 to 4 feet above the average high tide elevations. Due to its close proximity to Biscayne Bay and the Atlantic Ocean, the Village's stormwater management system is completely influenced by tidal waters, which presents a challenge for stormwater disposal systems. The Village is Florida's southernmost barrier island and is susceptible to the potential impacts of Sea Level Rise and Climate Change.

The fluctuating sea levels directly affect the boundary conditions of the stormwater drainage systems within the Village. These issues, if not well understood can compromise and ultimately reduce the capacity of existing drainage systems that will result in flooding during severe storm events typically witnessed in Miami-Dade County. With this knowledge, our team will implement a project approach methodology that proposes measures and systems that will serve to protect the Village. These measures will protect residents and businesses from property damage and quality of life disruptions that are associated with excessive flooding and prolonged staging of storm water runoff on roadways and private parcels.

The Village Council and staff as a result of RFQ 14-02 has selected the firm of EAC Consulting, Inc. (EAC), to perform the requisite services to plan, engineer and administer the construction of the needed infrastructure improvements towards protecting the village's residents and business owners from unnecessary flooding and promoting a higher standard of living and level of service for all the Village's stakeholders.

The implementation of the Village's SWMP ("the project") has two main task elements:

1. Hydraulic and Hydrologic Analyses and Evaluation of VKB's Storm Watershed incorporating recent infrastructure improvements undertaken by the Village, proposed implementation tasks identified in VKB's RFQ document as well as strategies proposed by EAC Consulting, Inc., as outlined in the technical proposal presented to the Village in December 2014. This effort will incorporate the required sea level rise considerations that will ensure that proposed improvements are sustainable and adequate to mitigate storm events consistent with current regulatory and jurisdictional standards.
2. Engineering Design and the Development of Construction Documents for each of the priority basins as outlined in the VKB's RFQ document. This task will include the necessary data collection (surveying, subsurface utility engineering and geotechnical), civil engineering, electrical engineering and environmental assessments required for the project(s). Included in this element is the securing of all required jurisdictional approvals/permits, support during the procurement of construction and construction observation services to extent authorized by VKB. This element of the project will also encompass the public outreach/ workshops to be performed during the process of implementing the improvements.

The professional engineering and services components included in the execution of this project(s) include:

1. Hydraulic/Hydrologic Analyses / Evaluations
2. Stormwater Engineering

3. Topography Surveying & Mapping and Subsurface Utilities Investigation
4. Environmental Assessments
5. Geotechnical Investigations & Engineering
6. Civil / Roadway Engineering
7. Electrical Engineering
8. Structural Engineering and Assessments
9. Sea Level Rise Assessments
10. Public Involvement & Community Outreach
11. Pipe Condition Assessments

2.0 SCOPE OF WORK

TASK 1: HYDRAULIC AND HYDROLOGIC ANALYSES AND EVALUATION OF VKB'S STORM WATERSHED

Sub Task 1A: Data Collection

EAC will obtain the current information from and on the Village with the purpose of incorporating the all recent infrastructure improvements undertaken by the Village, proposed implementation tasks identified in VKB's RFQ document as well as strategies proposed by EAC as outlined in the technical proposal presented to the Village in December 2014 into VKB's watershed storm water management infrastructure system. In addition, EAC will collect and compile data pertinent data for use in performing the requisite evaluations needed to establish the reference point for improvements required for stormwater management within the VKB.

The data collection effort includes INFOSWMM model

1. Digital Terrain Models (DTM) used to establish stage-storage relationships
2. Latest bare-earth LIDAR data specific to the priority basins within VKB
3. Latest aerial images within VKB
4. GIS shape files which include:
 - a. Basin delineations
 - b. Water bodies/canals
 - c. Land use (existing and future)
 - d. Soil types
 - e. Storm Sewer systems (wells, exfiltration trenches, pipes, outfalls, etc.)
 - f. Building footprints and available finish floor elevations
 - g. Roadway Network by classification (local, arterial, and evacuation routes)
 - h. Lot/Right-of-Way lines and parcels
5. Flood record data within VKB and Citizen flood/stormwater drainage complaints.
6. Latest Drainage Atlas Maps in hardcopy and GIS format
7. 2011 Stormwater Storm Drainage Master Plan Update
8. Current and future flood protection project conceptual /design plans in CADD format
9. SFWMD DBHYDRO data which includes hydrologic, meteorological, hydro geologic and water quality data.
10. National Oceanic and Atmospheric Administration (NOAA) tide, current water level, and other coastal oceanographic data
11. Location and dimensions of needed drainage conveyance and control structures (dimensions, invert elevations, materials, overflow elevation, etc.)
12. Pertinent GIS data/coverages that will support development of the implementation of the SWMP.
13. US Army Corps of Engineers (USACE) Sea Level Change updates
14. United States Geological Survey(USGS) Groundwater Level Data
15. Natural Resources Conservation Service (NRCS) Geospatial Data
16. Federal Emergency Management Agency (FEMA) Flood Insurance Maps and Data

Sub Task 1B: Analyses and Evaluation

VKB's highly urbanized areas and low topographic elevations, as well as the environmentally sensitive receiving water bodies, create a challenge when it comes to stormwater and floodplain management. For

these reasons, a thorough evaluation and analyses of recommended infrastructure improvements must be reincorporated into the existing hydraulic model of 2011 updating any recent or new land use changes that have occurred since the last update. This will facilitate achieving a solid basis and framework for managing stormwater runoff and implementing the desired improvements in ways that minimize both environmental and social impacts.

Furthermore, VKB completed its last update to its SWMP in 2011. In order for the Village to maintain and improve its National Flood Insurance Program (NFIP) Community Rating System (CRS) classification, the SWMP requires update at a maximum of 5 year intervals. This effort will be important towards this undertaking. The CRS rating is tied directly to flood insurance rates in and, as a result, maintaining or improving the rate will allow VKB's residents to maintain existing savings on their flood insurance coverage premiums.

EAC will utilize the hydrologic/hydraulic model developed as part of VKB 2011 SWMP effort to evaluate the flood protection effectiveness of the purpose of incorporating the all recent infrastructure improvements undertaken by the Village, proposed implementation tasks identified in VKB's RFQ document as well as strategies proposed by EAC as outlined in the technical proposal presented to the Village in December 2014. Specifically this effort will focus on the **7 Priority Basins** identified by VKB as needing immediate action. EAC will work closely with the VKB staff in identifying the key project elements to be incorporated within the 2011 VKB XP-SWMM model. EAC will revise the 2011 VKB XP-SWMM model to incorporate key recommended and or implemented primary hydraulic and flood protection measures while updating the hydrologic conditions within the model to reflect changes from 2011 and any future modifications not accounted for in the 2011 update.

For evaluation purposes EAC will assume that all proposed infrastructure improvements will be incorporated simultaneously and will not be evaluated individually. Also EAC will assume that all results from the 2011 Model Update reflect baseline conditions and no alterations will be made to the revise this established conditions.

Peak elevations and flows will be determined for each of the basins within VKB's storm water watershed model for the following design storm events for the following events:

- a. 10-year, 72-hours
- b. 25-year, 72-hours
- c. 100-year, 72-hours

Peak stages will be in feet NGVD29 and the flows will be in cubic feet per second. These results will be compared to the baseline values established in the 2011 SWMP to ensure no adverse impacts due to the improvements proposed. Furthermore, EAC will recommend flow and stage monitoring locations within the VKB to assist the Village in assessing the effectiveness of its infrastructure.

EAC shall provide the engineering services project management and coordination for the activities performed under this task. EAC shall monitor labor utilization, Project schedule, and Project budget on a regular basis. EAC shall prepare a Project schedule for review by the Village. EAC shall follow its Quality Assurance/Quality Control Plan (QA/QC) for implementing the assignments under this task. All engineering submittals, including memoranda & reports will undergo quality management reviews in accordance with EAC QA/QC procedures. The purpose of the QC review is to verify that the resulting deliverables meet acceptable practice and that the documents have been properly coordinated to the satisfaction of the VKB.

Sub Task 1C: Meetings and Workshops

EAC will attend and participate at the following meetings with the Village and will have applicable sub consultant representation.

1. Project Kick-off meeting (1 Meeting)
2. Bi-weekly Progress Meetings (4 Meetings)
3. Internal Technical Meetings (up to 5 Meetings)

4. One Community Outreach Workshop (1 Meeting) – includes the preparation for, presentation at meeting including graphics and handouts and summary notes. This outreach workshop will also provide basic conceptual cost estimates for each of the priority projects.

Specifically, EAC shall perform the following:

- a) Work with the VKB staff to prepare for the meeting including review of materials and content for preparation.
- b) Perform informational outreach and notification to residents and stakeholders.
- c) Coordinate informational content and liaise with Key Biscayne's "Islander News" for dissemination of project update and status.
- d) Record the proceedings at the Outreach workshop and document for posting on VKB's website.
- e) Coordinate with VKB's Information Technology Department for posting project informational and records.

Sub Task 1D: Memorandum / Report

EAC will prepare Technical Memorandum/Report documenting all project coordination activities and results and recommendations from this task. One (1) digital copy, via FTP file transfer in PDF format, of the Technical Memorandum will be provided for the Village's review. Upon receipt of the VKB's written review comments, one (1) digital copy, via FTP file transfer in PDF format, and three (3) final copies of the Technical Memorandum will be provided for the Village. This report will include a basic conceptual cost estimates for each of the priority projects.

Sub Task 1E: Incorporation of Green Infrastructure into H&H Model (Optional Service)

Upon the approval by VKB, EAC will incorporate Green Infrastructure investigation and strategies into the Village's H&H model to facilitate cost savings in hard costs due to the potential infrastructure needs that will result upon incorporating the effects of sea level rise (SLR) and actual disposal characteristics of the existing system. VKB is in the most vulnerable region with respect to sea level rise and it is imperative that a SLR adaptation plan be incorporated within the analyses to ensure that preventive short term improvements can be identified & acted upon and longer term SLR impacts (2ft – 4ft) can be assessed for future implementation.

PAYMENT AND DELIVERABLES SCHEDULE

Payment shall be made on a lump sum basis in the fixed amounts specified below for each task / deliverable. EAC shall submit invoices on a monthly basis, consistent with the progress and/or submittal of deliverables or attainment of milestones. As applicable, the invoices shall be accompanied by supporting material to document the work accomplished by the EAC during the period covered by the invoice.

Deliverable Item	Description	Deliverable Days After NTP	Fixed Lump Sum Costs
Task 1 - Hydraulic and Hydrologic Analyses and Evaluation of VKB's Storm Watershed			
Task 1A	Data Collection	20d	\$23,918.40
Task 1B	Analyses and Evaluation	50d	\$87,390.40
Task 1C	Meetings and Workshops	35d	\$16,814.40
Task 1D	Memorandum / Report	60d	\$25,048.00
Task 1E	Implementation of Green Infrastructure (Optional Service)	60d	\$18,947.20
	Reimbursables		\$ 4,595.14
Total		60d	\$172,118.40

EXHIBIT "B"

PROFESSIONAL SERVICES AGREEMENT

BETWEEN

THE VILLAGE OF KEY BISCAYNE

AND

EAC CONSULTING, INC.

THIS AGREEMENT (this "Agreement") is made effective as of the ____ day of _____, 2015 (the "Effective Date"), by and between the **VILLAGE OF KEY BISCAYNE, FLORIDA**, a Florida municipal corporation, whose principal address is 88 West McIntyre Street, Key Biscayne, Florida 33149 (hereinafter the "Village"), and **EAC CONSULTING, INC.**, a Florida corporation, whose principal address is 815 N.W. 57 Avenue, Suite 402, Miami, Florida 33126 (hereinafter the "Consultant").

WHEREAS, in response to the Village's Request for Qualifications (RFQ) No. 2014-02, Contractor submitted a proposal for the Services (as hereinafter defined);

WHEREAS, the Consultant and Village, through mutual negotiation, have agreed upon a scope of services, schedule, and fee for professional engineering services in connection with Task 1 of the Village's stormwater implementation plan, as set forth in the Consultant's Proposal attached hereto as Exhibit "A" (the "Services"); and

WHEREAS, the Village desires to engage the Consultant to perform the Services and provide the deliverables as specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the Village agree as follows:

1. **Scope of Services.**

1.1. The Consultant shall furnish such professional services and provide deliverables (the "Services") for task 1 of the Village's stormwater implementation plan, as described in the Proposal attached hereto and made a part hereof as Exhibit "A" (the "Statement of Work" or "Services").

2. **Term/Commencement Date.**

2.1 This Agreement shall become effective upon the Effective Date and shall remain in effect until Consultant completes the Services described herein, which Services are scheduled to be completed in accordance with the Statement of Work and schedule set forth in Exhibit "A", but not to sixty

(60) calendar days from the date of Notice to Proceed, unless earlier terminated in accordance with Paragraph 8.

2.2 Consultant agrees that time is of the essence and Consultant shall complete the Services within the timeframes set forth in the Statement of Work attached hereto as Exhibit "A" and as provided in this Agreement, unless extended by the Village Manager.

3. **Compensation and Payment.**

3.1 Compensation for Services provided by Consultant shall be in accordance with the compensation or fixed lump sum cost not to exceed the amount of \$172,118.40, as set forth in the Statement of Work attached hereto as Exhibit "A."

3.2 Consultant shall deliver an invoice to Village no more often than once per month detailing Services completed and the amount due to Consultant under this Agreement. Fees shall be paid in arrears each month, pursuant to Consultant's invoice, which shall be based upon the percentage of work completed for each task invoiced. The Village shall pay the Consultant in accordance with the Florida Prompt Payment Act after approval and acceptance of the Services by the Village Manager.

4. **Subconsultants.**

4.1 The Consultant shall be responsible for all payments to any subconsultants and shall maintain responsibility for all work related to the Project.

4.2 Consultant may only utilize the services of a particular subconsultant with the prior written approval of the Village Manager, which approval may be granted or withheld in Village Manager's reasonable discretion.

5. **Village's Responsibilities**

5.1 Village shall make available any maps, plans, existing studies, reports and other data pertinent to the Services and in possession of the Village.

5.2 Upon Consultant's request, Village shall reasonably cooperate in arranging for access to any real property as required for Consultant to perform the Services.

6. **Consultant's Responsibilities**

6.1 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the Services for the Project as is ordinarily provided by a consultant under similar circumstances. If at any time during the

term of this Agreement or within two (2) years from the completion of the Project, it is determined that the Consultant's deliverables or services are incorrect, not properly rendered, defective, or fail to conform to the Services for the Project, upon written notification from the Village Manager, the Consultant shall at Consultant's sole expense, immediately correct its deliverables or Services.

6.2 The Consultant hereby warrants and represents that at all times during the term of this Agreement it shall maintain in good standing all required licenses, certifications and permits required under Federal, State and local laws applicable to and necessary to perform the Services for Village as an independent contractor of the Village.

7. **Conflict of Interest.**

7.1 To avoid any conflict of interest or any appearance thereof, Consultant shall not, for the term of this Agreement, provide any consulting services to any private sector entities (developers, corporations, real estate investors, etc.), with any adversarial issues in the Village. For the purposes of this section "adversarial" shall mean any development application where staff is recommending denial or denied an application, or an administrative appeal or court action wherein the Village is a party.

8. **Termination.**

8.1 The Village Manager, without cause, may terminate this Agreement upon five (5) calendar days written notice to the Consultant, or immediately with cause.

8.2 Upon receipt of the Village's written notice of termination, Consultant shall immediately stop work on the Project unless directed otherwise by the Village Manager.

8.3 In the event of termination by the Village, the Consultant shall be paid for all work accepted by the Village Manager up to the date of termination, provided that the Consultant has first complied with the provisions of Paragraph 8.4.

8.4 The Consultant shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Services and the Project to the Village, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Agreement.

9. **Insurance.**

- 9.1 Consultant shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts not less than those specified below as satisfactory to Village, naming the Village as an Additional Insured, underwritten by a firm rated A-X or better by A.M. Best and qualified to do business in the State of Florida. The insurance coverage shall be primary insurance with respect to the Village, its officials, employees, agents and volunteers naming the Village as additional insured. Any insurance maintained by the Village shall be in excess of the Consultant's insurance and shall not contribute to the Consultant's insurance. The insurance coverages shall include at a minimum the amounts set forth in this Section 9 and may be increased by the Village as it deems necessary or prudent.
- 9.2 Commercial General Liability coverage with limits of liability of not less than a \$1,000,000 per Occurrence combined single limit for Bodily Injury and Property Damage. This Liability Insurance shall also include Completed Operations and Product Liability coverages and eliminate the exclusion with respect to property under the care, custody and control of Consultant. The General Aggregate Liability limit and the Products/Completed Operations Liability Aggregate limit shall be in the amount of \$2,000,000 each.
- 9.3 Workers Compensation and Employer's Liability insurance, to apply for all employees for statutory limits as required by applicable State and Federal laws. The policy(ies) must include Employer's Liability with minimum limits of \$1,000,000.00 each accident. No employee, subcontractor or agent of the Consultant shall be allowed to provide Services pursuant to this Agreement who is not covered by Worker's Compensation insurance.
- 9.4 Business Automobile Liability with minimum limits of \$1,000,000 per Occurrence, combined single limit for Bodily Injury and Property Damage. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Service Office, and must include Owned, Hired, and Non-Owned Vehicles.
- 9.5 Professional Liability Insurance in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence, single limit.
- 9.6 **Certificate of Insurance.** Certificates of Insurance shall be provided to the Village, reflecting the Village as an Additional Insured (except with respect to Professional Liability Insurance), no later than ten (10) days after award of this Agreement and prior to the execution of this Agreement by Village and prior to commencing any Services. Each certificate shall include no less than (30) thirty-day advance written notice to Village prior to cancellation, termination, or material alteration of said policies or

insurance. The Consultant shall be responsible for assuring that the insurance certificates required by this Section remain in full force and effect for the duration of this Agreement, including any extensions or renewals that may be granted by the Village. The Certificates of Insurance shall not only name the types of policy(ies) provided, but also shall refer specifically to this Agreement and shall state that such insurance is as required by this Agreement. The Village reserves the right to inspect and return a certified copy of such policies, upon written request by the Village. If a policy is due to expire prior to the completion of the Services, renewal Certificates of Insurance shall be furnished thirty (30) calendar days prior to the date of their policy expiration. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted. Acceptance of the Certificate(s) is subject to approval of the Village.

9.7 **Additional Insured.** Except with respect to Professional Liability Insurance, the Village is to be specifically included as an Additional Insured for the liability of the Village resulting from Services performed by or on behalf of the Consultant in performance of this Agreement. The Consultant's insurance, including that applicable to the Village as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the Village shall be in excess of and shall not contribute to the Consultant's insurance. The Consultant's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured (for applicable policies) in the same manner as if separate policies had been issued to each.

9.8 **Deductibles.** All deductibles or self-insured retentions must be declared to and be reasonably approved by the Village. The Consultant shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim.

9.9 The provisions of this section shall survive termination of this Agreement.

10. **Nondiscrimination.**

10.1 During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination

11. **Attorneys Fees and Waiver of Jury Trial.**

11.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the

fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

11.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

12. **Indemnification.**

12.1 Consultant shall indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising from Consultant's performance or non-performance of any provision of this Agreement, including, but not limited to, liabilities arising from contracts between the Consultant and third parties made pursuant to this Agreement. Consultant shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising from Consultant's performance or non-performance of this Agreement.

12.2 The provisions of this section shall survive termination of this Agreement.

13. **Notices/Authorized Representatives.**

13.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the Village: John C. Gilbert
Village Manager
Village of Key Biscayne
88 West McIntyre Street
Key Biscayne, FL 33149

With a copy to: Stephen J. Helfman, Esq.
Village Attorney
Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
2525 Ponce de Leon Blvd., Suite 700
Coral Gables, Florida 33134

For The Consultant:

EAC Consulting, Inc.
815 N.W. 57 Avenue, Suite 402
Miami, Florida 33126

14. **Governing Law.**

14.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Venue for any litigation arising out of this Agreement shall be proper exclusively in Miami-Dade County, Florida.

15. **Entire Agreement/Modification/Amendment.**

15.1 This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

15.3 Consultant represents that is an entity validly existing and in good standing under the laws of Florida. The execution, delivery and performance of this Agreement by Consultant have been duly authorized, and this Agreement is binding on Consultant and enforceable against Consultant in accordance with its terms. No consent of any other person or entity to such execution, delivery and performance is required.

16. **Ownership and Access to Records and Audits.**

16.1 Consultant acknowledges that all inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether patentable or not) which relate to Services to the Village which are conceived, developed or made by Consultant during the term of this Agreement (“Work Product”) belong to the Village. Consultant shall promptly disclose such Work Product to the Village and perform all actions reasonably requested by the Village (whether during or after the term of this Agreement) to establish and confirm such ownership (including, without limitation, assignments, powers of attorney and other instruments).

16.2 All records, books, documents, maps, data, deliverables, papers and financial information (the “Records”) that result from the Consultant providing the Services to the Village under this Agreement shall be the property of the Village.

16.3 The Village Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Consultant involving transactions related to this Agreement. In addition, the Consultant agrees to comply specifically with the provisions of Section 119.0701, Florida Statutes.

16.4 The Village may cancel and terminate this Agreement immediately for refusal by the Consultant to allow access by the Village Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

17. **Nonassignability.**

17.1 This Agreement shall not be assignable by Consultant unless such assignment is first approved by the Village Manager. The Village is relying upon the apparent qualifications and expertise of the Consultant, and such firm's familiarity with the Village's area, circumstances and desires.

18. **Severability.**

18.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. **Independent Contractor.**

19.1 The Consultant and its employees, volunteers and agents shall be and remain an independent contractor and not an agent or employee of the Village with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **Compliance with Laws.**

20.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities in carrying out Services under this Agreement, and in particular shall obtain all required permits from all jurisdictional agencies to perform the Services under this Agreement.

21. **Waiver**

21.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

22. **Survival of Provisions**

22.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

23. **Prohibition of Contingency Fees.**

23.1 The Consultant warrants 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, and that it has not paid or agreed to pay any person(s), 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.

24. **Public Entity Crimes Affidavit**

24.1 Consultant shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.

25. **Counterparts**

25.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF the parties hereto have executed this Agreement as of the date written below their signatures.

CONSULTANT:

EAC CONSULTING, INC., a Florida corporation

By: _____

Name: _____

Title: _____

Date Executed: _____

IN WITNESS WHEREOF the parties hereto have executed this Agreement on the day and date first above written.

VILLAGE:

**VILLAGE OF KEY BISCAYNE, a
Florida municipal corporation**

By: _____
John C. Gilbert, Village Manager

Date Executed: _____

Attest:

Conchita Alvarez, Village Clerk, CMC

Approved as to Form and Legal Sufficiency:

Village Attorney

EXHIBIT "A"

STATEMENT OF WORK VILLAGE OF KEY BISCAYNE (VKB) IMPLEMENTATION OF STORMWATER MASTERPLAN (SWMP) VKB RFQ NO.14-02 EAC PROJECT NO: C15008SD01.00

1.0 INTRODUCTION / BACKGROUND

The Village of Key Biscayne (VKB) encompasses 850 acres and is characterized by terrain topography that is predominantly flat and low lying in relation to sea level. The elevations of the roadways are approximately 3.5 feet to nearly 6 feet above mean sea level (MSL) which only provides a buffer of 2 to 4 feet above the average high tide elevations. Due to its close proximity to Biscayne Bay and the Atlantic Ocean, the Village's stormwater management system is completely influenced by tidal waters, which presents a challenge for stormwater disposal systems. The Village is Florida's southernmost barrier island and is susceptible to the potential impacts of Sea Level Rise and Climate Change.

The fluctuating sea levels directly affect the boundary conditions of the stormwater drainage systems within the Village. These issues, if not well understood can compromise and ultimately reduce the capacity of existing drainage systems that will result in flooding during severe storm events typically witnessed in Miami-Dade County. With this knowledge, our team will implement a project approach methodology that proposes measures and systems that will serve to protect the Village. These measures will protect residents and businesses from property damage and quality of life disruptions that are associated with excessive flooding and prolonged staging of storm water runoff on roadways and private parcels.

The Village Council and staff as a result of RFQ 14-02 has selected the firm of EAC Consulting, Inc. (EAC), to perform the requisite services to plan, engineer and administer the construction of the needed infrastructure improvements towards protecting the village's residents and business owners from unnecessary flooding and promoting a higher standard of living and level of service for all the Village's stakeholders.

The implementation of the Village's SWMP ("the project") has two main task elements:

1. Hydraulic and Hydrologic Analyses and Evaluation of VKB's Storm Watershed incorporating recent infrastructure improvements undertaken by the Village, proposed implementation tasks identified in VKB's RFQ document as well as strategies proposed by EAC Consulting, Inc., as outlined in the technical proposal presented to the Village in December 2014. This effort will incorporate the required sea level rise considerations that will ensure that proposed improvements are sustainable and adequate to mitigate storm events consistent with current regulatory and jurisdictional standards.
2. Engineering Design and the Development of Construction Documents for each of the priority basins as outlined in the VKB's RFQ document. This task will include the necessary data collection (surveying, subsurface utility engineering and geotechnical), civil engineering, electrical engineering and environmental assessments required for the project(s). Included in this element is the securing of all required jurisdictional approvals/permits, support during the procurement of construction and construction observation services to extent authorized by VKB. This element of the project will also encompass the public outreach/ workshops to be performed during the process of implementing the improvements.

The professional engineering and services components included in the execution of this project(s) include:

1. Hydraulic/Hydrologic Analyses / Evaluations
2. Stormwater Engineering

3. Topography Surveying & Mapping and Subsurface Utilities Investigation
4. Environmental Assessments
5. Geotechnical Investigations & Engineering
6. Civil / Roadway Engineering
7. Electrical Engineering
8. Structural Engineering and Assessments
9. Sea Level Rise Assessments
10. Public Involvement & Community Outreach
11. Pipe Condition Assessments

2.0 SCOPE OF WORK

TASK 1: HYDRAULIC AND HYDROLOGIC ANALYSES AND EVALUATION OF VKB'S STORM WATERSHED

Sub Task 1A: Data Collection

EAC will obtain the current information from and on the Village with the purpose of incorporating the all recent infrastructure improvements undertaken by the Village, proposed implementation tasks identified in VKB's RFQ document as well as strategies proposed by EAC as outlined in the technical proposal presented to the Village in December 2014 into VKB's watershed storm water management infrastructure system. In addition, EAC will collect and compile data pertinent data for use in performing the requisite evaluations needed to establish the reference point for improvements required for stormwater management within the VKB.

The data collection effort includes INFOSWMM model

1. Digital Terrain Models (DTM) used to establish stage-storage relationships
2. Latest bare-earth LIDAR data specific to the priority basins within VKB
3. Latest aerial images within VKB
4. GIS shape files which include:
 - a. Basin delineations
 - b. Water bodies/canals
 - c. Land use (existing and future)
 - d. Soil types
 - e. Storm Sewer systems (wells, exfiltration trenches, pipes, outfalls, etc.)
 - f. Building footprints and available finish floor elevations
 - g. Roadway Network by classification (local, arterial, and evacuation routes)
 - h. Lot/Right-of-Way lines and parcels
5. Flood record data within VKB and Citizen flood/stormwater drainage complaints.
6. Latest Drainage Atlas Maps in hardcopy and GIS format
7. 2011 Stormwater Storm Drainage Master Plan Update
8. Current and future flood protection project conceptual /design plans in CADD format
9. SFWMD DBHYDRO data which includes hydrologic, meteorological, hydro geologic and water quality data.
10. National Oceanic and Atmospheric Administration (NOAA) tide, current water level, and other coastal oceanographic data
11. Location and dimensions of needed drainage conveyance and control structures (dimensions, invert elevations, materials, overflow elevation, etc.)
12. Pertinent GIS data/coverages that will support development of the implementation of the SWMP.
13. US Army Corps of Engineers (USACE) Sea Level Change updates
14. United States Geological Survey(USGS) Groundwater Level Data
15. Natural Resources Conservation Service (NRCS) Geospatial Data
16. Federal Emergency Management Agency (FEMA) Flood Insurance Maps and Data

Sub Task 1B: Analyses and Evaluation

VKB's highly urbanized areas and low topographic elevations, as well as the environmentally sensitive receiving water bodies, create a challenge when it comes to stormwater and floodplain management. For

these reasons, a thorough evaluation and analyses of recommended infrastructure improvements must be reincorporated into the existing hydraulic model of 2011 updating any recent or new land use changes that have occurred since the last update. This will facilitate achieving a solid basis and framework for managing stormwater runoff and implementing the desired improvements in ways that minimize both environmental and social impacts.

Furthermore, VKB completed its last update to its SWMP in 2011. In order for the Village to maintain and improve its National Flood Insurance Program (NFIP) Community Rating System (CRS) classification, the SWMP requires update at a maximum of 5 year intervals. This effort will be important towards this undertaking. The CRS rating is tied directly to flood insurance rates in and, as a result, maintaining or improving the rate will allow VKB's residents to maintain existing savings on their flood insurance coverage premiums.

EAC will utilize the hydrologic/hydraulic model developed as part of VKB 2011 SWMP effort to evaluate the flood protection effectiveness of the purpose of incorporating the all recent infrastructure improvements undertaken by the Village, proposed implementation tasks identified in VKB's RFQ document as well as strategies proposed by EAC as outlined in the technical proposal presented to the Village in December 2014. Specifically this effort will focus on the **7 Priority Basins** identified by VKB as needing immediate action. EAC will work closely with the VKB staff in identifying the key project elements to be incorporated within the 2011 VKB XP-SWMM model. EAC will revise the 2011 VKB XP-SWMM model to incorporate key recommended and or implemented primary hydraulic and flood protection measures while updating the hydrologic conditions within the model to reflect changes from 2011 and any future modifications not accounted for in the 2011 update.

For evaluation purposes EAC will assume that all proposed infrastructure improvements will be incorporated simultaneously and will not be evaluated individually. Also EAC will assume that all results from the 2011 Model Update reflect baseline conditions and no alterations will be made to the revise this established conditions.

Peak elevations and flows will be determined for each of the basins within VKB's storm water watershed model for the following design storm events for the following events:

- a. 10-year, 72-hours
- b. 25-year, 72-hours
- c. 100-year, 72-hours

Peak stages will be in feet NGVD29 and the flows will be in cubic feet per second. These results will be compared to the baseline values established in the 2011 SWMP to ensure no adverse impacts due to the improvements proposed. Furthermore, EAC will recommend flow and stage monitoring locations within the VKB to assist the Village in assessing the effectiveness of its infrastructure.

EAC shall provide the engineering services project management and coordination for the activities performed under this task. EAC shall monitor labor utilization, Project schedule, and Project budget on a regular basis. EAC shall prepare a Project schedule for review by the Village. EAC shall follow its Quality Assurance/Quality Control Plan (QA/QC) for implementing the assignments under this task. All engineering submittals, including memoranda & reports will undergo quality management reviews in accordance with EAC QA/QC procedures. The purpose of the QC review is to verify that the resulting deliverables meet acceptable practice and that the documents have been properly coordinated to the satisfaction of the VKB.

Sub Task 1C: Meetings and Workshops

EAC will attend and participate at the following meetings with the Village and will have applicable sub consultant representation.

1. Project Kick-off meeting (1 Meeting)
2. Bi-weekly Progress Meetings (4 Meetings)
3. Internal Technical Meetings (up to 5 Meetings)

4. One Community Outreach Workshop (1 Meeting) – includes the preparation for, presentation at meeting including graphics and handouts and summary notes. This outreach workshop will also provide basic conceptual cost estimates for each of the priority projects.

Specifically, EAC shall perform the following:

- a) Work with the VKB staff to prepare for the meeting including review of materials and content for preparation.
- b) Perform informational outreach and notification to residents and stakeholders.
- c) Coordinate informational content and liaise with Key Biscayne’s “Islander News” for dissemination of project update and status.
- d) Record the proceedings at the Outreach workshop and document for posting on VKB’s website.
- e) Coordinate with VKB’s Information Technology Department for posting project informational and records.

Sub Task 1D: Memorandum / Report

EAC will prepare Technical Memorandum/Report documenting all project coordination activities and results and recommendations from this task. One (1) digital copy, via FTP file transfer in PDF format, of the Technical Memorandum will be provided for the Village's review. Upon receipt of the VKB's written review comments, one (1) digital copy, via FTP file transfer in PDF format, and three (3) final copies of the Technical Memorandum will be provided for the Village. This report will include a basic conceptual cost estimates for each of the priority projects.

Sub Task 1E: Incorporation of Green Infrastructure into H&H Model (Optional Service)

Upon the approval by VKB, EAC will incorporate Green Infrastructure investigation and strategies into the Village’s H&H model to facilitate cost savings in hard costs due to the potential infrastructure needs that will result upon incorporating the effects of sea level rise (SLR) and actual disposal characteristics of the existing system. VKB is in the most vulnerable region with respect to sea level rise and it is imperative that a SLR adaptation plan be incorporated within the analyses to ensure that preventive short term improvements can be identified & acted upon and longer term SLR impacts (2ft – 4ft) can be assessed for future implementation.

PAYMENT AND DELIVERABLES SCHEDULE

Payment shall be made on a lump sum basis in the fixed amounts specified below for each task / deliverable. EAC shall submit invoices on a monthly basis, consistent with the progress and/or submittal of deliverables or attainment of milestones. As applicable, the invoices shall be accompanied by supporting material to document the work accomplished by the EAC during the period covered by the invoice.

Deliverable Item	Description	Deliverable Days After NTP	Fixed Lump Sum Costs
Task 1 - Hydraulic and Hydrologic Analyses and Evaluation of VKB’s Storm Watershed			
Task 1A	Data Collection	20d	\$23,918.40
Task 1B	Analyses and Evaluation	50d	\$87,390.40
Task 1C	Meetings and Workshops	35d	\$16,814.40
Task 1D	Memorandum / Report	60d	\$25,048.00
Task 1E	Implementation of Green Infrastructure (Optional Service)	60d	\$18,947.20
	Reimbursables		\$ 4,595.14
Total		60d	\$172,118.40