


CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Aneth Williams 
Director of Procurement

DATE: October 3, 2016

RE: Approval of Contract Renewal and Subconsultant with Day Communications, Inc.
for Communications and Marketing Consultant Services
Contract No. 001002

Board approval is requested for the first renewal of the referenced contract with Day Communications, Inc. in the amount of \$0.00 for a one year period beginning December 30, 2016 and ending December 29, 2017. The original contract was three years with two one-year renewals.

Original Contract Amount	\$ 987,625.00
Supplemental Agreement No. 1	\$ 987,625.00
First Renewal	\$ 0.00
Total	\$1,975,250.00

The service to be provided by Day Communications, Inc. under this renewal is to provide communications and marketing support.

Day Communications has requested approval to use Doverwood Communications, Inc., to provide social media competitive analysis, strategy and implementation of College E-PASS social media campaign.

Board approval of Doverwood Communications, Inc., as a subconsultant to Day Communications, Inc. is requested.

Reviewed by: 
Michelle Maikisch
Chief of Staff/Public Affairs Officer

CENTRAL FLORIDA EXPRESSWAY AUTHORITY
REQUEST FOR AUTHORIZATION TO SUBLET SERVICES

Consultant: Day Communications, Inc. Date: 8/1/2016

CFX Contract Name: Communications and Marketing Consultant Services. CFX Contract No.: 001002

Authorization is requested to sublet the services identified below which are included in the above referenced Contract. Consultant requests approval to sublet services to:

Subconsultant Name: Doverwood Communications, Inc.

Address: 1026 Dunraven Drive, Winter Park, FL 32789

Phone No.: 321-945-4208

Federal Employee ID No.: FEI/EIN # 20-3227402

Description of Services to Be Sublet:

Social media strategy, content development, tracking, digital advertising, digital buying/tracking of social media campaigns

Estimated Beginning Date of Sublet Services: 8/1/2016

Estimated Completion Date of Sublet Services: _____

Estimated Value of Sublet Services*: \$greater than 25,000


Consultant hereby certifies that the proposed subconsultant has been advised of, and agrees to, the terms and conditions in the Consultant's Contract with CFX that are applicable to the subconsultant and the services to be sublet:



Requested By: _____
(Signature of Consultant Representative)

President
Title

Recommended by:  _____ Date: 10/5/16
(Signature of Appropriate CFX Director/Manager)

Approved by:  _____ Date: 10/5/16
(Signature of Appropriate CFX Division Chief)

Attach Subconsultant's Certificate of Insurance to this Request.

**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
CONTRACT RENEWAL AGREEMENT
CONTRACT NO. 001002**

THIS CONTRACT RENEWAL AGREEMENT (the "Renewal Agreement"), made and entered into this 13th day of October, 2016, by and between the Central Florida Expressway Authority, hereinafter called "CFX" and Day Communications, Inc., herein after called the "Contractor."

WITNESSETH

WHEREAS, CFX and the Contractor entered into a Contract Agreement (the "Original Agreement") dated December 12, 2013, with a Notice to Proceed date of December 20, 2013, whereby CFX retained the Contractor to provide communications and marketing services; and

WHEREAS, pursuant to Article 2 of the Original Agreement, CFX and Contractor wish to renew the Original Agreement for a period of one (1) year;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, CFX and Contractor agree to a first renewal of said Original Agreement beginning the 30th day of December, 2016 and ending the 29th day of December, 2017 with no increase in the Contract amount.

Contractor states that, upon its receipt and acceptance of Final Payment for Services renders under the first Contract renewal ending December 29, 2016, the Contractor shall execute a "Certificate of Completion of the first Contract Renewal and Acceptance of Final Payment" that waives all future right of claim for additional compensation for services rendered under the first renewal of the Contract ending December 29, 2016.

All terms and conditions of said Original Agreement and any supplements and amendments thereto shall remain in full force and effect during the full term of this Renewal Agreement.

IN WITNESS WHEREOF, the parties have executed this Renewal Agreement by their duly authorized officers on the day, month and year set forth above.

DAY COMMUNICATIONS, INC.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

BY: _____
Authorized Signature

BY: _____
Director of Procurement

Title: _____

ATTEST: _____ (SEAL)
Secretary or Notary

If Individual, furnish two witness:

Witness (1) _____
Witness (2) _____

Legal Approval as to Form

General Counsel for CFX

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**CENTRAL FLORIDA EXPRESSWAY AUTHORITY
SUPPLEMENTAL AGREEMENT NO. 1
TO
AGREEMENT FOR COMMUNICATIONS AND MARKETING CONSULTANT
SERVICES
CONTRACT NO. 001002**

This Supplemental Agreement No. 1 ("Supplemental Agreement") is entered into this 14th day of April 2016, by and between the Central Florida Expressway Authority ("CFX") and Day Communications, Inc. ("Consultant").

WITNESSETH:

WHEREAS, CFX and the Consultant on December 12, 2013, entered into an Agreement whereby CFX retained the Consultant to communications and marketing services; and

WHEREAS, CFX has determined it necessary to increase the Contract amount by \$987,625.00 in order to continue the required services through the term of the Contract; and,

WHEREAS, CFX will utilize any funds not expended during the initial term as funding for the anticipated first renewal period commencing December 12, 2016; and,

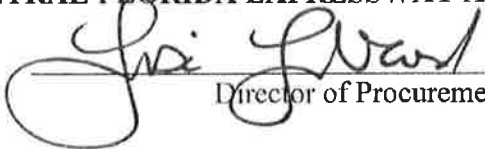
WHEREAS, the Consultant hereby agrees to the increase in the Contract amount and will continue provide the required services with no change in the fees and rates included in the original Contract dated December 12, 2013;

NOW, THEREFORE, for and in consideration of the mutual benefits to flow each to the other, the parties agree that the Consultant shall provide the required services as detailed in the Scope of Services included in the original Contract and CFX shall increase the amount of the Contract by \$987,625.00 which shall make the total not-to-exceed amount of the Contract \$1,975,250.00.

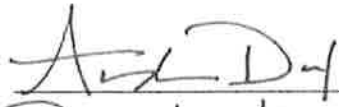
CFX and Consultant agree that this Supplemental Agreement No.1 shall not alter or change in any manner the force and effect of the original Contract except insofar as the same is altered and amended by this Supplemental Agreement No.1; that acceptance of this Supplemental Agreement No.1 signifies the Consultant's waiver of all future rights for additional compensation which is not already defined herein.

IN WITNESS THEREOF, the parties hereto have caused these presents to be executed on the day and year first written above. This Supplemental Agreement No. 1 was approved by CFX Board of Directors on April 14, 2016.

CENTRAL FLORIDA EXPRESSWAY AUTHORITY

By: 
Director of Procurement


DAY COMMUNICATIONS, INC.

By: 
Title: President

Attest: _____ (Seal)

Approved as to form and execution, only.


General Counsel for CFX



CENTRAL FLORIDA EXPRESSWAY AUTHORITY

MEMORANDUM

TO: CFX Board Members

FROM: Michelle Maikisch 
Chief of Staff/Public Affairs Officer

DATE: April 6, 2016

SUBJECT: Approval of Supplemental Agreement No. 1 and Subconsultant to the Communications and Marketing Consultant Services Contract with Day Communications, Inc.
Contract No. 001002

Board approval is requested for Supplemental Agreement No. 1 with Day Communications in the amount of \$987,625.00 to continue the communication services provided to the agency through this contract. Hourly rates will remain the same and the amount requested will cover the services at a minimum through December 2017.

The communication services contract held by Day Communications, Inc. was competitively procured through the Small Sustainable Business Enterprise (SSBE) program in December 2013. Day Communications and subcontractors support staff in the areas of graphics, public information materials, website design and development, market research and customer surveying, CAFR production, video, and photography.

The contract, based on an estimated projection of man-hours, has been utilized as a task driven professional services labor contract. This contract does not include CFX promotion placements which are done in house through internal procurement processes which allow CFX to save agency costs of up to 15% per placement. The contract award was for three years with two one year renewal options.

When the contract was scoped and awarded, the projected work product and hours were based on programs and initiatives under the previous agency. The creation and transition into the Central Florida Expressway Authority has required numerous unexpected outreach and communications tasks that is anticipated to continue as outlined below.

- Communications staff support for public outreach and education, media relations, social media, customer surveys, and community engagement during the transition period from the one county agency (June 2013) into the expanded, four county Central Florida Expressway Authority.
- New agency website, CFXWay.com including market research, content development, web design, and the coordination of launch. (May 1, 2016)

4974 ORL TOWER RD. ORLANDO, FL 32807 | PHONE: (407) 690-5000 | FAX: (407) 690-5011

WWW.CFXWAY.COM



- Responsible for supporting staff in developing the plan, project management and final reporting for the visioning and mission initiative to gather input from CFX employees, customers, stakeholders, and the public spanning four counties, as part of the 2040 Master Plan development; Provided editorial and graphic support for the 2040 Master Plan.
- Supported the planning, content development, graphics and program coordination for the public awareness and promotions of CFX Board approved Beltway Discount program across four counties, targeting commuters and increasing new accounts; Supported staff for the planning, preparation, project management, and launch of the Holiday E-PASS promotions.
- Responsible for supporting staff in the planning, messaging, creative, project management and reporting for the local public education program surrounding the *Designated Texter* campaign.
- Developed the template and responsible for supporting the ongoing production of the Monthly Dashboard for the Board, customers and general public
- Prepare monthly briefs of regional transportation partner activities for the Chief of Staff and Executive Director.
- Support for the development of the strategic plan initiatives for CFX branding, E-PASS, customer service, and community involvement.
- Provide onsite staffing support to the Public Information/Education Department due to leaves and resignations.

Approval is requested for Supplemental Agreement 1 for continued communication services to support ongoing and new initiatives.

Original Contract Amount	\$ 987,625.00
Amount of this Supplemental Agreement	<u>\$ 987,625.00</u>
Total Revised Contract Amount	<u>\$1,975,250.00</u>

Day Communications, Inc. previously requested and was granted approval to use Lure Design, Inc., as a sub-consultant in the not to exceed amount of \$24,995.00. Day Communications, Inc. has requested approval to continue to use Lure Design, Inc., to provide graphics, digital, design, and project management services. The fees are expected to exceed the \$25,000.00 threshold established by the Policy for subconsultants not disclosed by Day Communications, Inc. when its contract with CFX was originally awarded.

Board approval of Lure Design, Inc., as a subconsultant to Day Communications, Inc. is requested.

CONTRACT

**ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY
AND
DAY COMMUNICATIONS, INC.**

**COMMUNICATIONS AND MARKETING
CONSULTANT SERVICES**

CONTRACT NO. 001002

**CONTRACT DATE: DECEMBER 12, 2013
CONTRACT AMOUNT: \$987,625.00**



**ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY**

**CONTRACT, SCOPE OF SERVICES, METHOD OF
COMPENSATION, TECHNICAL PROPOSAL, PRICE
PROPOSAL**

**CONTRACT, SCOPE OF SERVICES, METHOD OF COMPENSATION,
TECHNICAL PROPOSAL, PRICE PROPOSAL**

FOR

COMMUNICATIONS AND MARKETING CONSULTANT SERVICES

CONTRACT NO. 001002

December 2013

Members of the Board

**Walter A. Ketcham, Jr., Chairman
R. Scott Batterson, P.E., Vice Chairman
Teresa Jacobs, Secretary/Treasurer
Noranne B. Downs, P.E., Ex-Officio Member
Marco Peña, Board Member**

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CONTRACT

This Contract No. 001002 (the "Contract" as defined herein below), is made this 12th day of December, 2013, between the ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY, a body politic and agency of the State of Florida, hereinafter called the AUTHORITY and DAY COMMUNICATIONS, INC., 501 South New York Avenue, Suite 200, Winter Park, Florida 32789, hereinafter the CONSULTANT:

WITNESSETH:

WHEREAS, the AUTHORITY was created by statute and is charged with acquiring, constructing, operating and maintaining a system of limited access roadways known as the Orlando-Orange County Expressway System; and,

WHEREAS, the AUTHORITY has been granted the power under Section 348.754(2)(m) of Florida Statutes, "to do all acts and things necessary or convenient for the conduct of its business and the general welfare of the authority, in order to carry out the powers granted to it (by state law);" and,

WHEREAS, the AUTHORITY has determined that it is necessary and convenient in the conduct of its business to retain the services of a consultant to perform communications and marketing services and related tasks as may be assigned to the CONSULTANT by the AUTHORITY and identified as Contract No. 001002; and,

WHEREAS, on or about October 13, 2013, the AUTHORITY issued a Request for Proposals seeking qualified consultants to perform such tasks; and,

WHEREAS, CONSULTANT was the successful one of four qualified firms that responded to the Request for Proposals and was ultimately selected; and,

NOW THEREFORE, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, the receipt and sufficiency of which being hereby acknowledged by each party to the other, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

The CONSULTANT shall, for the consideration herein stated and at its cost and expense, do all the work and furnish all the materials, equipment, supplies and labor necessary to perform this Contract in the manner and to the full extent as set forth in the Contract Documents all of which are hereby adopted and made part of this Contract as completely as if incorporated herein. The Contract shall be performed and services provided to the satisfaction of the duly authorized representatives of the AUTHORITY, who shall have at all times full opportunity to evaluate the services provided under this Contract.

The services to be provided under this Contract include providing communication and marketing services as detailed in the Contract Documents and any amendments, supplements, or modifications thereto.

The AUTHORITY does not guarantee that all of the services described in the Scope of Services will be assigned during the term of the Contract. Further, the CONSULTANT is providing these services on a non-exclusive basis. The AUTHORITY, at its option, may elect to have any of the services set forth herein performed by other contractors or AUTHORITY staff.

The Contract Documents, in order of precedence, consist of:

- 1.1 The Contract, including insurance policies,
- 1.2 The Scope of Services,
- 1.3 The Method of Compensation,
- 1.4 The Technical Proposal submitted by CONSULTANT, and
- 1.5 The Price Proposal submitted by CONSULTANT,

(collectively, the "Contract").

2. TERM AND NOTICE

The initial term of the Contract will be three (3) years from the date indicated in the Notice to Proceed from the AUTHORITY. There shall be two renewal options of one (1) year each. The options to renew are at the sole discretion and election of the AUTHORITY. Renewals will be based, in part, on a determination by the AUTHORITY that the value and level of service provided by the CONSULTANT are satisfactory and adequate for the AUTHORITY's needs. If a renewal option is exercised, the AUTHORITY will provide the CONSULTANT with written notice of its intent at least 90 days prior to the expiration of the initial three-year Contract Term.

The AUTHORITY shall have the right to terminate or suspend the Contract, in whole or in part, at any time with 10 days notice for convenience or 15 days with cure notice for cause for CONSULTANT's material failure to perform the provisions of the Contract. Under no circumstances shall a properly noticed termination by the AUTHORITY (with or without cause) constitute a default by the AUTHORITY. In the event of a termination for convenience or without cause, AUTHORITY shall notify CONSULTANT (in writing) of such action with instructions as to the effective date of termination or suspension, in accordance with the time frames set forth hereinabove. CONSULTANT will be paid for all work performed prior to termination and any reasonable, documented, direct, normal, and ordinary termination expenses. CONSULTANT will not be paid for special, indirect, consequential, or undocumented termination expenses. Payment for work performed will be based on Contract prices, which prices are deemed to include profit and overhead. No profit or overhead will be allowed for work not performed, regardless of whether the termination is for cause.

If CONSULTANT: (i) fails to perform the Contract terms and conditions; (ii) fails to begin the work under the Contract within the time specified in the "Notice to Proceed"; (iii) fails to perform the work with sufficient personnel or with sufficient materials to assure the prompt

performance of the work items covered by the Contract; (iv) fails to comply with the Contract, or (v) performs unsuitably or unsatisfactorily in the opinion of AUTHORITY reasonably exercised, or for any other cause whatsoever, fails to carry on the work in an acceptable manner, the AUTHORITY will give notice in writing to the CONSULTANT of such delay, neglect or default. If the Contract is declared in default, the AUTHORITY may take over the work covered by the Contract.

If CONSULTANT (within the curative period, if any, described in the notice of default) does not correct the default, AUTHORITY will have the right to remove the work from CONSULTANT and to declare the Contract in default and terminated.

Upon declaration of default and termination of the Contract, AUTHORITY will have the right to appropriate or use any or all materials as the AUTHORITY determines, and may retain others for the completion of the work under the Contract, or may use other methods which in the opinion of AUTHORITY are required for Contract completion. All costs and charges incurred by AUTHORITY because of, or related to, the CONSULTANT's default (including the costs of completing Contract performance) shall be charged against the CONSULTANT. If the expense of Contract completion exceeds the sum which would have been payable under the Contract, the CONSULTANT shall pay the AUTHORITY the amount of the excess. If, after the default notice curative period has expired, but prior to any action by AUTHORITY to complete the work under the Contract, CONSULTANT demonstrates an intent and ability to cure the default in accordance with AUTHORITY's requirements, AUTHORITY may, but is not obligated to, permit CONSULTANT to resume work under the Contract. In such circumstances, any costs of AUTHORITY incurred by the delay (or from any reason attributable to the delay) will be deducted from any monies due or which may become due CONSULTANT under the Contract. Any such costs incurred by AUTHORITY which exceed the remaining amount due on the Contract shall be reimbursed to AUTHORITY by CONSULTANT. The financial obligations of this paragraph, as well as any other provision of the Contract which by its nature and context survives the expiration of earlier termination of the Contract, shall survive the expiration or earlier termination of the Contract.

AUTHORITY shall have no liability to CONSULTANT for expenses or profits related to unfinished work on a Contract terminated for default.

AUTHORITY reserves the right to terminate or cancel this Contract in the event the CONSULTANT shall be placed in either voluntary or involuntary bankruptcy or an assignment is made for the benefit of creditors. Such termination shall be deemed a termination for default.

3. CONTRACT AMOUNT AND COMPENSATION FOR SERVICES

3.1 The Contract Amount for the Contract term is \$987,625.00.

3.2 AUTHORITY agrees to pay CONSULTANT for services performed in accordance with the Method of Compensation.

4. AUDIT AND EXAMINATION OF RECORDS

4.1 Definition of Records:

(i) "Contract Records" shall include, but not be limited to, all information, communications and data, whether in writing or stored on a computer, computer disks, microfilm, writings, working papers, drafts, computer printouts, field notes, charts or any other data compilations, books of account, photographs, videotapes and audiotapes supporting documents, any other papers or preserved data in whatever form, related to the Contract or the CONSULTANT's performance of the Contract determined necessary or desirable by the AUTHORITY for any purpose. Proposal Records shall include, but not be limited to, all information and data, whether in writing or stored on a computer, writings, working papers, computer printouts, charts or other data compilations that contain or reflect information, data or calculations used by CONSULTANT in determining labor, unit price, or any other component of a bid submitted to the AUTHORITY.

(ii) "Proposal Records" shall include, but not be limited to, any material relating to the determination or application of equipment rates, home and field overhead rates, related time schedules, labor rates, efficiency or productivity factors, arithmetic extensions, quotations from subcontractors, or material suppliers, profit contingencies and any manuals standard in the industry that may be used by CONSULTANT in determining a price.

AUTHORITY reserves and is granted the right (at any time and from time to time, for any reason whatsoever) to review, audit, copy, examine and investigate in any manner, any Contract Records (as herein defined) or Proposal Records (as hereinafter defined) of the CONSULTANT or any subcontractor. By submitting a response to the Request for Proposal, CONSULTANT or any subcontractor submits to and agree to comply with the provisions of this section.

If the AUTHORITY requests access to or review of any Contract Documents or Proposal Records and CONSULTANT refuses such access or review, CONSULTANT shall be in default under its Contract with AUTHORITY, and such refusal shall, without any other or additional actions or omissions, constitute grounds for suspension or disqualification of CONSULTANT. These provisions shall not be limited in any manner by the existence of any CONSULTANT claims or pending litigation relating to the Contract. Disqualification or suspension of the CONSULTANT for failure to comply with this section shall also preclude the CONSULTANT from acting in the future as a subcontractor of another CONSULTANT doing work for the AUTHORITY during the period of disqualification or suspension. Disqualification shall mean the CONSULTANT is not eligible for and shall be precluded from doing future work for the AUTHORITY until reinstated by the AUTHORITY.

Final Audit for Project Closeout: The CONSULTANT shall permit the AUTHORITY, at the AUTHORITY'S option, to perform or have performed, an audit of the records of the CONSULTANT and any or all subcontractors to support the compensation paid the CONSULTANT. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the CONSULTANT under the Contract are subsequently determined to have been inadvertently paid by the AUTHORITY because of accounting errors or charges not in conformity with the Contract, the CONSULTANT

agrees that such amounts are due to the AUTHORITY upon demand. Final payment to the CONSULTANT shall be adjusted for audit results.

CONSULTANT shall preserve all Proposal Records and Contract Records for the entire term of the Contract and for a period of five (5) years after the later of: (i) final acceptance of the project by the AUTHORITY, (ii) until all claims (if any) regarding the Contract are resolved, or (iii) expiration of the Proposal Records and Contract Records' status as public records, as and if applicable, under Chapter 119, Florida Statutes.

5. MINORITY AND WOMEN'S BUSINESS ENTERPRISES

AUTHORITY has adopted a program to provide opportunities for small business, including Minority Business Enterprises ("MBEs") and Women's Business Enterprises ("WBEs"). Under the AUTHORITY'S program, CONSULTANT is encouraged to grant small businesses the maximum opportunity to participate in the provision of the Services.

6. CONSULTANT INSURANCE

CONSULTANT shall carry and keep in force during the period of this Contract, the required amount of coverage as stated below. All insurance must be underwritten by insurers that are qualified to transact business in the State of Florida and that have been in business and have a record of successful and continuous operations for at least five (5) years. Each shall carry a rating of "A-" (excellent) and a financial rating of Class XII, as defined by A.M. Best and Company's Key Rating Guide and must be approved by the AUTHORITY. CONSULTANT shall carry and keep in force the following insurance coverage, and provide the AUTHORITY with correct certificates of insurance (ACORD forms) upon Contract execution:

6.1 Commercial General Liability Insurance having a minimum coverage of One Million Dollars (\$1,000,000.00) per occurrence of bodily injury or property damage. The contractual liability insurance coverage shall include coverage for responsibilities and liabilities assumed by CONSULTANT under this Agreement.

6.2 Business Automobile Liability (for bodily injury, death and property damage) having a minimum coverage of One Million Dollars (\$1,000,000.00) for each accident;

6.3 Workers' Compensation Insurance Coverage, including all coverage required under the laws of the state of Florida (as amended from time to time hereafter);

6.4 Unemployment Insurance Coverage in amounts and forms required by Florida law, as it may be amended from time to time hereafter.

Such insurance policies shall be without co-insurance, and shall (a) include the AUTHORITY, and such other applicable parties the AUTHORITY shall designate, as additional insureds for commercial general liability and business automobile liability, (b) be primary insurance, (c) include contractual liability for commercial general liability, (d) provide that the policy may not be canceled or materially changed without at least thirty (30) days prior written notice to the AUTHORITY from the company providing such insurance, and (e) provide that the insurer

waives any right of subrogation against AUTHORITY, to the extent allowed by law and to the extent the same would not void primary coverage for applicable insurance policies. CONSULTANT shall be responsible for any deductible it may carry. At least fifteen (15) days prior to the expiration of any such policy of insurance required to be carried by CONSULTANT hereunder, CONSULTANT shall deliver insurance certificates to AUTHORITY evidencing a renewal or new policy to take the place of the one expiring. Procurement of insurance shall not be construed to limit CONSULTANT's obligations or liabilities under the Contract. The requirement of insurance shall not be deemed a waiver of sovereign immunity by AUTHORITY.

Any insurance carried by the AUTHORITY in addition to CONSULTANT's policies shall be excess insurance, not contributory.

If CONSULTANT fails to obtain the proper insurance policies or coverages, or fails to provide AUTHORITY with certificates of same, the AUTHORITY may obtain such policies and coverages at CONSULTANT's expense and deduct such costs from CONSULTANT payments.

7. CONSULTANT RESPONSIBILITY

CONSULTANT shall comply with, and shall cause its employees, agents, officers and subcontractors and all other persons for whom CONSULTANT may be legally or contractually responsible to comply with, applicable laws, ordinances, rules, regulations, orders of public authorities, sound business practices, including without limitation:

- (i) those relating to the safety of persons and property and their protection from damage, injury or loss, and
- (ii) all workplace laws, regulations, and posting requirements, and
- (iii) implementation of a drug-free workplace policy at least of a standard comparable to, and in compliance with, AUTHORITY'S Drug-Free Workplace Policy; And
- (iv) compliance with the public records laws of Chapter 119, Florida Statutes.

8. INDEMNITY

The CONSULTANT shall indemnify, defend and hold harmless AUTHORITY and all of its respective officers, CONSULTANT's or employees from actual suits, actions, claims, demands, costs as defined elsewhere herein, expenses (including reasonable attorneys' fees as defined elsewhere herein), judgments, liabilities of any nature whatsoever (collectively, "Claims") arising out of, because of, or due to breach of the Contract by the CONSULTANT (its subcontractors, officers, agents or employees) or due to any negligent or intentional act or occurrence of omission or commission of the CONSULTANT (its subcontractors, officers, agents or employees), including without limitation any misappropriation or violation of third party copyright, trademark, patent, trade secret, publicity, or other intellectual property rights or other third party rights of any kind by or arising out of any one or more of the following:

8.1 violation of same by CONSULTANT, its subcontractors, officers, agents or employees,

8.2 AUTHORITY's use or possession of the CONSULTANT Property or CONSULTANT Intellectual Property (as defined herein below),

8.3 AUTHORITY's full exercise of its rights under any license conveyed to it by CONSULTANT,

8.4 CONSULTANT's violation of the confidentiality and security requirements associated with the AUTHORITY Property and AUTHORITY Intellectual Property (as defined herein below),

8.5 CONSULTANT's failure to include terms in its subcontracts as required by this Contract,

8.6 CONSULTANT's failure to ensure compliance with the requirements of the Contract by its employees, agents, officers, or subcontractors, or

8.7 CONSULTANT's breach of any of the warranties or representations contained in this Contract.

CONSULTANT will not be liable for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the AUTHORITY or any of its officers, agents or employees. The parties agree that 1% of the total compensation to the CONSULTANT for performance of each task authorized under the Contract is the specific consideration from AUTHORITY to CONSULTANT for CONSULTANT's indemnity and the parties further agree that the 1% is included in the amount negotiated for each authorized task.

9. PUBLIC RECORDS

Upon receipt of any request by a member of the public for any documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, made or received by CONSULTANT in conjunction with this Contract (including without limitation CONSULTANT Records and Proposal Records, if and as applicable), CONSULTANT shall immediately notify the AUTHORITY. Thereafter, CONSULTANT shall follow AUTHORITY'S instructions with regard to such request. To the extent that such request seeks non-exempt public records, the AUTHORITY shall direct CONSULTANT to provide such records for inspection and copying in compliance with Chapter 119. A subsequent refusal or failure by CONSULTANT to timely grant such public access will be grounds for immediate, unilateral cancellation of the Contract by AUTHORITY.

10. PRESS RELEASES

CONSULTANT shall make no statements, press releases or publicity releases concerning the Contract or its subject matter, or otherwise disclose or permit to be disclosed any of the data or other information obtained or furnished under the Contract, or any particulars thereof, including

without limitation AUTHORITY Property and AUTHORITY Intellectual Property, without first notifying AUTHORITY and securing its consent in writing.

11. OWNERSHIP OF MATERIALS AND INTELLECTUAL PROPERTY RIGHTS

AUTHORITY is and shall be and remain the sole owner of all rights, title, and interest in, to, and associated with all plans, documents, software in all forms, hardware, programs, procedures, specifications, drawings, brochures pamphlets, manuals, flyers, models, photographic or design images, negatives, videos and film, tapes, work product, information, data and other items (all whether in preliminary, draft, master, final, paper, electronic, or other form), along with the media on which they reside and with which they interface for function or aesthetics, that are generated or developed with respect to and in connection with this Contract and the performance thereof (collectively, the "AUTHORITY Property"). AUTHORITY's ownership of the AUTHORITY Property includes without limitation all common law, statutory and other rights, title, and interest in, to, and associated with trademark, service mark, copyright, patent, trade secret, and publicity (collectively, the "AUTHORITY Intellectual Property"). CONSULTANT, its employees, agents, officers, and subcontractors acknowledge that E-PASS® is the AUTHORITY's registered trademark name for the AUTHORITY's electronic toll collection system, and comprises a portion of the AUTHORITY Intellectual Property.

CONSULTANT, its employees, agents, officers, and subcontractors may not use the AUTHORITY Property or AUTHORITY Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. CONSULTANT, its employees, agents, officers, and subcontractors' access to and/or use of the AUTHORITY Property and AUTHORITY Intellectual Property is without any warranty or representation by AUTHORITY regarding same.

For all materials listed hereinabove that are not generated or developed under this Contract or performance hereof, but rather are brought in, provided, or installed by CONSULTANT (collectively, the "CONSULTANT Property"), and the intellectual property rights associated therewith (collectively, the "CONSULTANT Intellectual Property"), CONSULTANT (its employees, officers, agents, and subcontractors, which for purposes of this section shall collectively be referred to as "CONSULTANT") warrants and represents the following:

11.1 CONSULTANT was and is the sole owner of all right, title and interest in and to all CONSULTANT Property and CONSULTANT Intellectual Property; **OR**

11.2 CONSULTANT has obtained, and was and is the sole holder of one or more freely assignable, transferable, non-exclusive licenses in and to the CONSULTANT Property and CONSULTANT Intellectual Property, as necessary to provide and install the CONSULTANT Property and/or to assign or grant corresponding to AUTHORITY all licenses necessary for the full performance of this Contract; and that the CONSULTANT is current and will remain current on all royalty payments due and payable under any license where CONSULTANT is licensee; **AND**

11.3 CONSULTANT has not conveyed, and will not convey, any assignment, security interest, exclusive license, or other right, title, or interest that would interfere in any way with the AUTHORITY's use of the CONSULTANT Property or any license granted to AUTHORITY for use of the CONSULTANT Intellectual Property rights; **AND**

11.4 Subject to Chapter 119, Florida Statutes (Florida Public Records Act), CONSULTANT shall maintain the AUTHORITY Property and AUTHORITY Intellectual Property in strictest confidence and may not transfer, disclose, duplicate, or otherwise use the AUTHORITY Property or AUTHORITY Intellectual Property in any way, other than in performance of its services under the terms of this Contract, without the prior written consent of AUTHORITY, which may be granted or denied in the AUTHORITY's sole discretion. CONSULTANT shall not publish, copyright, trademark, service mark, patent, or claim trade secret, publicity, or other rights of any kind in any of the Property. In ensuring the confidentiality and security of the AUTHORITY Property and AUTHORITY Intellectual Property, CONSULTANT shall utilize the same standards of protection and confidentiality that CONSULTANT uses to protect its own property and confidential information, but in no instance less than reasonable care plus the standards set forth anywhere in this Contract.

CONSULTANT further warrants and represents that there are no pending, threatened, or anticipated Claims against CONSULTANT, its employees, officers, agents, or subcontractors with respect to the CONSULTANT Property or CONSULTANT Intellectual Property.

The provisions of this Section shall survive the term of this Contract for the longer of:

11.5 The statute of limitations on any action arising out of either party's conduct relating to this section, whether such action may be brought by AUTHORITY, CONSULTANT, or a third party; **or**

11.6 AUTHORITY's continued use (notwithstanding any temporary suspension of use) of any CONSULTANT Property or CONSULTANT Intellectual Property; **and**

11.7 Notwithstanding sections 11.5 and 11.6, the confidentiality and security provisions contained herein shall survive the term of this Contract for ten (10) years beyond 11.5 and 11.6.

12. PERMITS, LICENSES, ETC.

Throughout the Term of the Contract, the CONSULTANT shall procure and maintain, at its sole expense, all permits and licenses that may be required in connection with the performance of Services by CONSULTANT; shall pay all charges, fees, royalties, and taxes; and shall give all notices necessary and incidental to the due and lawful prosecution of the Services. Copies of required permits and licenses shall be furnished to AUTHORITY upon request.

13. CONFLICT OF INTEREST AND STANDARDS OF CONDUCT

CONSULTANT warrants that it has not employed or retained any entity or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, and that CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm any fee, commission, percentage, gift or any other consideration, contingent upon or resulting from the award or making of this Contract. It is understood and agreed that the term "fee" shall also include brokerage fee, however denoted.

CONSULTANT acknowledges that AUTHORITY officials and employees are prohibited from soliciting and accepting funds or gifts from any person who has, maintains, or seeks business relations with the AUTHORITY in accordance with the AUTHORITY's Ethics Policy. CONSULTANT acknowledges that it has read the Ethics Policy and, to the extent applicable, CONSULTANT will comply with the aforesaid Ethics Policy in connection with performance of the Contract.

In the performance of the Contract, CONSULTANT shall comply with all applicable local, state, and federal laws and regulations and obtain all permits necessary to provide the Contract services.

CONSULTANT covenants and agrees that it and its employees, officers, agents, and subcontractors shall be bound by the standards of conduct provided in Florida Statutes 112.313 as it relates to work performed under this Contract, which standards will be reference be made a part of this Contract as though set forth in full.

14. NONDISCRIMINATION

CONSULTANT, its employees, officers, agents, and subcontractors shall not discriminate on the grounds of race, color, religion, sex, national origin, or other protected class, in the performance of work or selection of personnel under this Contract.

15. SUBLETTING AND ASSIGNMENT

AUTHORITY has selected CONSULTANT to perform the Services based upon characteristics and qualifications of CONSULTANT and its employees. Therefore, CONSULTANT shall not sublet, sell, transfer, assign, delegate, subcontract, or otherwise dispose of this Contract or any portion thereof, or of the CONSULTANT's right, title, or interest therein without the written consent of the AUTHORITY, which may be withheld in the AUTHORITY'S sole and absolute discretion. Any attempt by CONSULTANT to dispose of this Contract as described above, in part or in whole, without AUTHORITY'S written consent shall be null and void and shall, at AUTHORITY's option, constitute a default under the Contract.

If, during the term of the Contract, CONSULTANT desires to subcontract any portion(s) of the work to a subcontractor that was not disclosed by the CONSULTANT to the AUTHORITY at the time that the Contract was originally awarded, and such subcontract would, standing alone or aggregated with prior subcontracts awarded to the proposed subcontractor, equal or exceed

twenty five thousand dollars (\$25,000.00), the CONSULTANT shall first submit a request to the AUTHORITY's Director of Procurement for authorization to enter into such subcontract. Except in the case of an emergency, as determined by the Executive Director or his/her designee, no such subcontract shall be executed by the CONSULTANT until it has been approved by the AUTHORITY Board. In the event of a designated emergency, the CONSULTANT may enter into such a subcontract with the prior written approval of the Executive Director or his/her designee, but such subcontract shall contain a provision that provides that it shall be automatically terminated if not approved by the AUTHORITY Board at its next regularly scheduled meeting.

16. DISPUTES

All services shall be performed by the CONSULTANT to the reasonable satisfaction of the AUTHORITY's Executive Director (or his delegate), who shall decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of this Contract, the prosecution and fulfillment of the services described and the character, quality, amount and value thereof. The Executive Director's decision upon all claims, questions and disputes shall be final agency action. Adjustments of compensation and Contract time, because of any major changes in the work that may become necessary or desirable as the work progresses shall be left to the absolute discretion of the Executive Director (and the AUTHORITY Board if amendments are required) and supplemental agreement(s) of such nature as required may be entered into by the parties in accordance herewith.

17. PREVAILING PARTY ATTORNEY'S FEES

If any contested claim arises hereunder or relating to the Contract (or CONSULTANT's work hereunder), and either party engages legal counsel, the prevailing party in such dispute, as "prevailing party" is hereinafter defined, shall be entitled to recover reasonable attorneys' fees and costs as defined herein, from the non-prevailing party.

In order for CONSULTANT to be the prevailing party, CONSULTANT must receive an adjusted judgment or adjusted award equal to at least eighty percent (80%) of its contested claims filed with AUTHORITY, failing which AUTHORITY will be deemed the prevailing party for purposes of this Contract.

Should this section be judged void, unenforceable or illegal, in whole or in substantial part, by a court of competent jurisdiction, this section shall be void in its entirety and each party shall bear its own attorneys' fees and costs.

18. OTHER SEVERABILITY

If any section of this Contract, other than the immediately preceding Prevailing Party Attorneys' Fees section, be judged void, unenforceable or illegal, then the illegal provision shall be, if at all possible, interpreted or re-drafted into a valid, enforceable, legal provision as close to the parties' original intention, and the remaining portions of the Contract shall remain in full force and effect

and shall be enforced and interpreted as closely as possible to the parties' intention for the whole of the Contract.

19. GOVERNING LAW

This Contract shall be governed by and construed in accordance with the laws of Florida. Venue of any legal or administrative proceedings arising out of this Contract shall be exclusively in Orange County, Florida.

In consideration of the foregoing premises, AUTHORITY agrees to pay CONSULTANT for work performed and materials furnished at the prices submitted with the Proposal.

20. RELATIONSHIPS

CONSULTANT acknowledges that no employment relationship exists between AUTHORITY and CONSULTANT or CONSULTANT's employees. CONSULTANT shall be responsible for all direction and control of its employees and payment of all wages and salaries and other amounts due its employees. CONSULTANT shall be responsible for all reports and obligations respecting such employees, including without limitation social security tax and income tax withholding, unemployment compensation, workers compensation, and employment benefits.

CONSULTANT shall conduct no act or omission that would lead CONSULTANT's employees or any legal tribunal or regulatory agency to believe or conclude that CONSULTANT's employees would be employees of the AUTHORITY.

Any approval by AUTHORITY of a subcontract or other matter herein requiring AUTHORITY approval for its occurrence shall not be deemed a warranty or endorsement of any kind by AUTHORITY of such subcontract, subcontractor, or matter.

21. INTERPRETATION

For purposes of this Contract, the singular shall include the plural, and the plural shall include the singular, unless the context clearly requires otherwise. Except for reference to women's business enterprises and matters relating thereto, reference to one gender shall include all genders. Reference to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the stated statute or regulation. Words not otherwise defined and that have well-known technical, industry, or legal meanings, are used in accordance with such recognized meanings, in the order stated. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities. If CONSULTANT discovers any material discrepancy, deficiency, or ambiguity in this Contract, or is otherwise in doubt as to the meaning of any provision of the Contract, CONSULTANT may immediately notify AUTHORITY and request clarification of AUTHORITY's interpretation of the Contract. The Contract Documents, together with and including all exhibits, comprise the entire agreement of the parties and supersedes and nullifies all prior and contemporaneous negotiations,

representations, understandings, and agreements, whether written or oral, with respect to the subject matter hereof.

21. WAGE RATES AND TRUTH-IN-NEGOTIATIONS CERTIFICATE

The CONSULTANT hereby certifies, covenants and warrants that wage rates and other factual unit costs as shown in attached documentation supporting the compensation are accurate, complete and current as of the date of this Contract. It is further agreed that said price shall be adjusted to exclude any significant sums where the AUTHORITY shall determine the price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such adjustments shall be made within one year following the date of final billing or acceptance of the work by the AUTHORITY, whichever is later.

22. SURVIVAL OF EXPIRATION OR TERMINATION

Any clause, sentence, paragraph, or section providing for, discussing or relating to any of the following shall survive the expiration or earlier termination of the Contract:

22.1 Trademarks, service marks, patents, trade secrets, copyrights, publicity, or other intellectual property rights, and terms relating to the ownership, security, protection, or confidentiality thereof; and

22.2 Payment to CONSULTANT for satisfactory work performed or for termination expenses, if applicable; and

22.3 Prohibition on non-competition agreements of CONSULTANT's employees with respect to any successor of CONSULTANT; and

22.4 Obligations upon expiration or termination of the Contract; and

22.5 Any other term or terms of this Contract which by their nature or context necessarily survive the expiration or earlier termination of the Contract for their fulfillment.

23. OBLIGATIONS UPON EXPIRATION OR TERMINATION OF CONTRACT

23.1 Immediately upon expiration or termination of this Contract CONSULTANT shall submit to AUTHORITY, upon request, a report containing the last known contact information for each subcontractor or employee of CONSULTANT who performed work under the Contract; and

23.2 CONSULTANT shall initiate settlement of all outstanding liabilities and claims, if any, arising out of the Contract and any subcontracts or vending agreements to be canceled. All settlements shall be subject to the approval of AUTHORITY.

IN WITNESS WHEREOF, the authorized signatures named below have executed this Contract on behalf of the parties as of the day and year first above written. This Contract was awarded by the Authority's Board of Directors at its meeting on December 12, 2013.

ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY

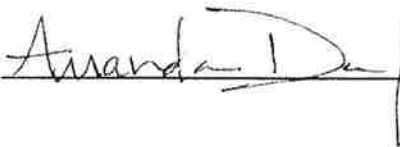
By: 
Director of Procurement

Print Name: Claude Miller

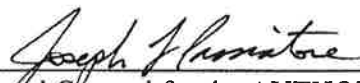
DAY COMMUNICATIONS, INC.

By: 

Print Name: Amanda Day
President
Title

ATTEST:  (Seal)

Approved as to form and execution, only.


General Counsel for the AUTHORITY

**SCOPE OF SERVICES
COMMUNICATION AND MARKETING CONSULTANT SERVICES**

1.0 DESCRIPTION

1.1 The Orlando-Orange County Expressway Authority (Authority) requires the services of a Communications and Marketing Consultant (Consultant) to provide innovative communication and marketing services which will enhance the operations and image of the Authority. Specific areas of services required consist of, but are not necessarily limited to, communication planning and implementation, marketing services, advertising services, public relations support, preparation of print materials, preparation of audio, video and slide presentations, and project planning, coordination and implementation.

1.2 The Authority has established the following goals and objectives for its communication and marketing program including:

- Increase public awareness of Authority programs
- Communicate the benefits of using the Authority system
- Increase use of the Authority system
- Reach out to local communities with information about Authority programs and services
- Increase communication and outreach to minority communities
- Manage ongoing market research to determine customer profile, needs, and expectations
- Manage the Authority's image campaign for Authority programs and services
- Develop and coordinate buys for television, radio, print, billboard, and other materials typical to a comprehensive long term communication and marketing program
- Increase the Authority's reach through social media platforms

Anticipated projects include, but are not limited to, the following:

- PSA Campaigns such as Designate a Texter
- Electronic Transponder Marketing
- Centralized Customer Service Center Initiative
- Customer Appreciation Program
- Customer Opinion Surveys

The Consultant shall make available the personnel, facilities, supplies, materials and resources necessary to enable the Authority to achieve its communication and marketing goals. The Consultant shall work closely with Authority staff in providing the support

services included in this project scope as directed by the Authority. The Consultant shall be responsible to ensure that sufficient staff or other resources are available to service multiple projects in progress concurrently.

- 1.3 The Authority does not guarantee that all of the services described in this Scope of Services will be assigned during the term of the Contract. Further, the Consultant is providing these services on a non-exclusive basis. The Authority, at its option, may elect to have any of the services set forth herein performed by other consultants or Authority staff.

2.0 CONSULTANT SERVICES

- 2.1 The Consultant shall provide qualified professional, technical and support personnel to perform the work and provide the technical expertise and resources required by the Authority to support the Authority's communication and marketing program. The Authority, at its option, may elect to expand, reduce or delete the extent of the work described herein. As used in the context of this Scope of Services, support shall be defined to include advising, informing, suggesting, evaluating, reviewing, recommending and planning the entire range of activities associated with communication and marketing. All work subcontracted by the Consultant shall be specifically authorized and approved in advance by the Authority.

- 2.2 Specific responsibilities of the Consultant shall include, but are not necessarily limited to: developing marketing plans; developing and producing display ads; developing and producing radio commercials; coordinating remote radio events; buying radio time; developing direct mail concepts; coordinating direct mailings; developing video concepts, writing scripts and producing videos; developing and producing computer generated and/or slide presentations; writing news articles for various publications; developing social media strategy; and providing photographic services.

3.0 SPECIAL TASKS ALLOWANCE

Special tasks may be assigned to the Consultant in accordance with the Contract and this Scope of Services. No special tasks shall begin without prior written authorization to the Consultant to perform the work.

4.0 COMPENSATION

Compensation to the Consultant will be made in accordance with the Method of Compensation. The Consultant shall pay all applicable sales tax charged by outside vendors/ subconsultants for goods/services purchased by the Consultant in the performance of its responsibilities under the Contract. Any such sales tax paid by the Consultant will be reimbursed by the Authority. However, the Authority is exempt from sales tax billed directly to the Authority.

5.0 TERM OF CONTRACT AND RENEWAL OPTIONS

Work shall commence upon issuance of the written Notice to Proceed from the Authority's Director of Public Affairs and Communication. The term and renewals options shall be as specified in the Contract.

END OF SCOPE OF SERVICES

**METHOD OF COMPENSATION
COMMUNICATIONS AND MARKETING CONSULTANT SERVICES
CONTRACT NO. 001002**

1.0 PURPOSE

This Exhibit describes the limits and method of compensation to be made to the Consultant for the services set forth in the Scope of Services. The services shall be provided over the duration of the work specified in the Contract.

2.0 COMPENSATION

For the satisfactory completion of the services detained in the Scope of Services, the Consultant will be paid up to a total not-to-exceed amount of \$987,625.00 for a three (3) year term. The total amount shall consist of an amount for labor of \$387,625.00 and an Allowance for Printing, Expenses and Media Buys of \$600,000.00. Consultant shall provide detailed estimates at the onset of each assignment. All expenditures from the Allowance will require specific authorization by the Authority before any costs are incurred by the Consultant and paid by the Authority. Subcontractor fees for printing and expenses as authorized by the Authority, will be passed through the Consultant at cost. Authorized media buys will also be paid for from the Allowance and passed through the Consultant at cost with no additional fees (percentage of buy) included.

3.0 METHOD OF COMPENSATION

- 3.1 In general, payment will be made to the Consultant not more than once monthly unless otherwise agreed to by the Authority prior to the start of an authorized work assignment. The Consultant shall prepare and submit an invoice to the Authority in a format acceptable to the Authority. The invoice shall be submitted in duplicate. The Consultant shall have a documented invoice procedure.
- 3.2 The Authority has a Purchasing Card Program (PCP) and an EFT wire transfer system in addition to the normal checking process. The Consultant may select at its convenience the appropriate method of payment and coordinate with the Authority the payment of the invoices. The Authority highly recommends the use of the PCP or the EFT method for the payment of invoices.
- 3.3 Payment for work completed by the Consultant and accepted by the Authority under the Allowance for Printing, Expenses and Media Buys will be made not more than once monthly unless otherwise agreed to by the Authority prior to the start of an authorized work assignment. No work paid for under the Allowance shall be performed until written authorization is given, or forwarded

via email, to the Consultant by the Authority. Any amounts remaining in the Allowance upon completion and acceptance of the project remain the property of the Authority and the Consultant acknowledges that it has no entitlement to the remaining funds.

- 3.4 The Consultant shall promptly pay all subcontractors their proportionate share of payment received from the Authority.
- 3.5 The Authority reserves the right to withhold payment or payments in whole or in part, and to continue to withhold any such payments for work not completed, completed unsatisfactorily, work that is behind schedule or work that is otherwise performed in an inadequate or untimely fashion as determined by the Authority. Any and all such payments previously withheld shall be released and paid to Consultant promptly when the work is subsequently satisfactorily performed.

4.0 PROJECT CLOSEOUT

The Consultant shall permit the Authority to perform, or have performed, a final audit of the records of the Consultant and any or all of its subcontractors to support the compensation paid the Consultant. The audit will be performed as soon as practical after completion and acceptance of the contracted services. In the event funds paid to the Consultant under the Contract are subsequently properly disallowed by the Authority because of accounting errors or charges not in conformity with the Contract, the Consultant agrees that such disallowed amounts are due the Authority upon demand. Further, the Authority shall have the right to deduct from any payment due the Consultant an amount sufficient to satisfy any amount due and owing the Authority by the Consultant under the Contract. Final payment to the Contract will be adjusted for audit results.

END OF SECTION