

**AGREEMENT FOR PROFESSIONAL SERVICES - A**

**PROFESSIONAL SERVICES AGREEMENT # 18-001**  
**between**  
**SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY**  
**and**  
**[CONSULTANT]**

THIS AGREEMENT is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the SAN FRANCISCO BAY AREA WATER EMERGENCY TRANSPORTATION AUTHORITY (hereinafter referred to as "WETA") and \_\_\_\_\_ (hereinafter referred to as "Consultant").

**WHEREAS**, WETA requires Vessel Construction Management Services and has issued an RFP dated \_\_\_\_\_, a copy of which is attached and incorporated as Exhibit A; and

**WHEREAS**, the Consultant desires to provide such services and has represented that it is experienced and qualified to perform such services. It has submitted a written proposal, dated \_\_\_\_\_, a copy of which is attached and incorporated as Exhibit B.

**WHEREAS**, on \_\_\_\_\_, WETA's Board of Directors authorized award of the Agreement to the Consultant.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

**1. RENDITION OF SERVICES**

The Consultant agrees to provide professional services to WETA in accordance with the terms and conditions of this Agreement. In the performance of its work, the Consultant represents that it (1) has and will exercise the degree of professional care, skill, efficiency, and judgment of consultants with special expertise in providing such services; (2) carries all applicable licenses, certificates, and registrations in current and good standing that may be required to perform the work; and (3) will retain all such licenses, certificates, and registrations in active status throughout the duration of this engagement.

**2. SCOPE OF SERVICES**

The scope of the Consultant's services consists of the services set forth in Exhibit A, as supplemented by Exhibit B, except when inconsistent with Exhibit A. Services will be performed on a task order basis, with individual task orders including specific scopes of services and other task-specific terms and conditions. In the event of any conflict or inconsistency between a task order and this Agreement, including Exhibits A and B, this Agreement, including Exhibits A and B, will control.

**3. COMPONENT PARTS OF THE AGREEMENT**

This Agreement consists of the following documents, all of which are incorporated into the agreement by this reference. In the event of any conflict of inconsistency between the following documents, they are listed in order of precedence:

- (a) Amendments to the Agreement
- (b) This Agreement
- (c) Exhibit A, WETA's RFP
- (d) Exhibit B, Consultant's Proposal, both technical and cost proposal, and including all forms and attachments
- (e) Exhibit C, Insurance Requirements

**4. TERM AND TIME OF COMPLETION**

The term of this Agreement will be for a three-year base term commencing upon WETA's issuance of a written notice to proceed, with up to two one-year option terms exercisable at WETA's sole discretion. Task Orders may be issued under this Agreement any time during the base term, or option terms if exercised. The Consultant's performance of services will commence for each Task Order upon receipt of the Notice to Proceed issued by WETA for the respective Task Order and the Consultant must complete the services within the period specified in the Task Order. In the event that a Task Order specifies a performance period extending beyond the term of the Agreement, including any options, the Agreement will remain in full force and effect until all outstanding services under all Task Orders are completed or terminated. WETA may exercise its option to extend this Agreement for up to two additional one-year periods. If WETA determines to exercise the first and/or subsequent option terms, WETA will provide at least 30 days' written notice of its intention to exercise the option terms.

**5. KEY PERSONNEL**

It is understood and agreed by the parties that \_\_\_\_\_ will serve as the primary staff person of the Consultant to undertake, render and oversee all of the services under this Agreement (Key Personnel). WETA awarded this Agreement to Consultant based on WETA's confidence and reliance on the expertise of Consultant's Key Personnel. Consultant may not reassign Key Personnel or assign another resource to the Key Personnel role until and unless WETA, in its sole discretion approves a replacement in writing.

WETA reserves the right to direct the removal of any personnel, including but not limited to Key Personnel, when in WETA's opinion the individual's performance is unsatisfactory. Replacement of personnel will not excuse Consultant from compliance with all of the requirements of this Agreement, including any schedule.

**6. COMPENSATION**

There is no guaranteed compensation under this Agreement. The Consultant agrees to perform all of the services included in Section 2 for a total not-to-exceed amount of \_\_\_\_\_ (\$\_\_\_\_\_), in accordance with Exhibits A and B and any Task Order. The total not-to-exceed amount includes labor, materials, taxes, insurance, subcontractor costs, travel expenses, telephone costs, copying costs, profit, administrative and overhead fees, and all other costs and expenses incurred by the Consultant. The hourly rate by personnel category is set forth in Exhibit B. WETA will pay the Consultant in accordance with Section 6.

**7. MANNER OF PAYMENT**

The Consultant may submit invoices on a monthly basis for each complete calendar month. Invoices must be submitted to WETA as soon as possible but no later than 30 days after the end of each month. Charges will be based upon services performed during the billing period.

Invoices must describe in detail the services rendered by Consultant during the billing period and must state the number of hours, and applicable hourly rate of each person. All invoices must include the contract number and task order number and must include the full name, phone number, and email of the person to contact with invoice questions.

PDF invoices should be emailed to the WETA project manager. No hard copy invoices are required if WETA acknowledges receipt of the email invoice.

WETA will endeavor to pay approved invoices within thirty (30) days of their receipt. If WETA objects to any invoice submitted by Consultant, WETA will so advise the Consultant in writing giving reasons for its objection. If any invoice submitted by the Consultant is disputed by WETA, only that portion so disputed may be withheld from payment and the Consultant must continue to perform diligently during the pendency of any dispute resolution process that may ensue.

**8. NOTICES**

All communications relating to the day-to-day activities of the project must be exchanged between WETA's \_\_\_\_\_ and the Consultant's \_\_\_\_\_.

All other notices and communications regarding interpretation of the terms of this Agreement and changes thereto must be given to the other party in writing and may be given by personal delivery to a representative of the parties or by mailing the same postage prepaid, addressed as follows:

If to WETA: San Francisco Bay Water Emergency Transportation Authority  
Pier 9, Suite 111  
San Francisco, CA, 94111  
Attn: Keith Stahnke, Director of Operations

If to the Consultant: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

The address to which mailings may be made may be changed from time to time by notice mailed as described above. Any notice given by mail will be deemed given on the day after that on which it is deposited in the United States Mail as provided above.

**9. OWNERSHIP OF WORK**

All reports, designs, drawings, plans, photographic images, video and sound recording, specifications, analyses, charts, tables, schedules and all other materials prepared, or in

the process of being prepared, for the services to be performed by the Consultant are the property of WETA. WETA is entitled access to and copies of these materials during the progress of the work. Any such materials remaining in the hands of the Consultant or in the hands of any subcontractor upon completion or termination of the work must be immediately delivered to WETA. If any materials are lost, damaged or destroyed before final delivery to WETA, the Consultant must replace them at its own expense, and the Consultant assumes all risks of loss, damage or destruction of or to such materials. The Consultant may retain a copy of all material produced under this Agreement for its use in its general business activities.

Any and all rights, title, and interest (including, without limitation, patent rights, copyright and any other intellectual-property or proprietary right) to materials prepared under this Agreement are hereby assigned to WETA. The Consultant agrees to execute any additional documents which may be necessary to evidence such assignment.

The Consultant represents and warrants that all materials prepared under this Agreement are original or developed from materials in the public domain (or both) and that all materials prepared under and services provided under this Agreement do not infringe or violate any copyright, trademark, patent, trade secret, or other intellectual-property or proprietary right of any third party.

#### **10. CONFIDENTIALITY**

Any WETA materials to which the Consultant has access or materials prepared by the Consultant during the course of this Agreement ("confidential information") must be held in confidence by the Consultant, who must exercise all reasonable precautions to prevent the disclosure of confidential information to anyone except the officers, employees, and agents of the Consultant as necessary to accomplish the rendition of services set forth in Section 2 of this Agreement.

The Consultant, its employees, subcontractors, and agents may not release any reports, information or other materials prepared in connection with this Agreement, whether deemed confidential or not, to any third party without the approval of WETA.

#### **11. USE OF SUBCONTRACTORS**

The Consultant may not subcontract any services to be performed by it under this Agreement without the prior written approval of WETA, except for service firms engaged in drawing, reproduction, typing, and printing. Any subcontractors must be engaged under written contract with the Consultant with provisions allowing the Consultant to comply with all requirements of this Agreement. The Consultant is solely responsible for reimbursing any subcontractors, and WETA has no obligation to them.

#### **12. CHANGES**

WETA may, at any time, by written order, make changes within the scope of work and services described in this Agreement. If such changes cause an increase in the budgeted cost of or the time required for performance of the agreed upon work, an equitable adjustment as mutually agreed will be made in the limit on compensation as set forth in Section 5 or in the time of required performance as set forth in Section 3, or both. In the event that the Consultant encounters any unanticipated conditions or contingencies that may affect the scope of work or services, schedule, or the amount of

compensation specified herein, the Consultant must so advise WETA immediately upon notice of such condition or contingency. The written notice must explain the circumstances giving rise to the unforeseen condition or contingency and must set forth the proposed adjustment in schedule or compensation. This notice must be given to WETA prior to the time that the Consultant performs work or services related to any proposed adjustment. The pertinent changes will be expressed in a written supplement to this Agreement prior to implementation of such changes.

**13. RESPONSIBILITY; INDEMNIFICATION**

To the maximum extent permitted by law, the Consultant must indemnify, keep and save harmless WETA and its directors, officers, agents and employees against any and all suits, claims or actions arising out of any of the following:

- A. Any injury to persons or property that may occur, or that may be alleged to have occurred, arising from the performance of this Agreement by the Consultant caused by a negligent act or omission or willful misconduct of the Consultant or its employees, subcontractors or agents; or
- B. Any allegation that materials or services provided by the Consultant under this Agreement infringe or violate any copyright, trademark, patent, trade secret, or any other intellectual-property or proprietary right of any third party.

The Consultant further agrees to defend any and all such actions, suits or claims, with counsel acceptable to WETA in its sole discretion, and pay all charges of attorneys and all other costs and expenses of defenses as they are incurred. If any judgment is rendered, or settlement reached, against WETA, or any of the other individuals enumerated above in any such action, the Consultant must, at its expense, satisfy and discharge the same. This indemnification survives the termination or expiration of the Agreement.

**14. INSURANCE**

Consultant is required to procure and maintain at its sole cost and expense the insurance coverage listed in Exhibit C. Consultant will provide a certificate evidencing that it meets the insurance requirements prior to WETA issuing a Notice to Proceed, and will provide updated certificate(s) each year. Consultant will maintain the required insurance for the duration of this Agreement and will provide WETA with at least 30 days notice of any modification or cancellation of any policy.

**15. CONSULTANT'S STATUS**

Neither the Consultant nor any party contracting with the Consultant will be deemed to be an agent or employee of WETA. The Consultant is and will be an independent Contractor, and the legal relationship of any person performing services for the Consultant is one solely between that person and the Consultant.

**16. ASSIGNMENT**

The Consultant may not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of WETA.

**17. WETA WARRANTIES**

WETA makes no warranties, representations or agreements, either express or implied, beyond such as are explicitly stated in this Agreement.

**18. WETA REPRESENTATIVE**

Except when approval or other action is required to be given or taken by the Board of Directors of WETA, the Executive Director of WETA, or such person or persons as she may designate in writing from time to time, represents and acts for WETA.

**19. DISPUTE RESOLUTION**

WETA and Consultant agree to attempt in good faith to resolve all disputes informally. If agreed to by both parties, alternate methods of dispute resolution, such as mediation, may be utilized. Unless otherwise directed by WETA, the Consultant must continue performance under this Agreement while matters in dispute are being resolved. Consultant must comply with the procedures stated in Government Code Section 900 *et seq.* prior to initiating any civil action.

**20. TERMINATION**

WETA will have the right to terminate this Agreement or any Task Order at any time for cause or for convenience (including but not limited to for non-appropriation of funds) by giving written notice to the Consultant. Upon receipt of such notice, the Consultant must not commit itself to any further expenditure of time or resources. If the Agreement is terminated for any reason other than a breach or default by the Consultant, WETA will pay the Consultant in accordance with the provisions of the applicable Task Order and this Agreement all sums actually due and owing from WETA for all services performed and all expenses incurred up to the day written notice of termination is given, plus any costs reasonably and necessary incurred by the Consultant to effect such termination.

If the Agreement or any Task Order is terminated for breach or default, WETA will provide Consultant a reasonable opportunity to cure any breach or default prior to termination. If the Agreement or any Task Order is terminated for breach or default, WETA will pay the Consultant an amount to cover only those services actually performed and expenses incurred in full accordance with the terms and conditions of this Agreement and Task Order up to the effective date of termination.

Upon termination for any reason, Consultant must transfer title to WETA (to the extent that title has not already been transferred) and deliver in the manner, at the times, and to the extent directed by WETA the work in process, completed work, and all other material produced as a part of, or acquired in respect of the performance. All data, work in process, completed work, and other material produced as a part of, or acquired in respect of the performance, whether complete or incomplete, must be delivered promptly to WETA in native format, or other such format as instructed by WETA.

In the event of termination, WETA will not in any manner be liable for the Consultant's actual or projected lost profits had the Consultant completed the services required by this Agreement or any Task Order.

**21. MAINTENANCE, AUDIT AND INSPECTION OF RECORDS**

All Consultant and subconsultant costs incurred in the performance of this Agreement will be subject to audit. The Consultant and its subconsultants must permit WETA or its authorized representatives (or the State Auditor) to inspect, examine, make excerpts from, transcribe, and copy the Consultant's books, work, documents, papers, materials, payrolls records, accounts, and any and all data relevant to the Agreement at any reasonable time, and to audit and verify statements, invoices or bills submitted by the Consultant pursuant to this Agreement. The Consultant must also provide such assistance as may be required in the course of such audit. The Consultant must retain these records and make them available for inspection hereunder for a period of four (4) years after expiration or termination of the Agreement.

If, as a result of the audit, it is determined by WETA's auditor or staff that reimbursement of any costs including profit or fee under this Agreement was in excess of that represented and relied upon during price negotiations or represented as a basis for payment, the Consultant agrees to reimburse WETA for those costs within 60 days of written notification by WETA.

**22. WORKERS' COMPENSATION COMPLIANCE**

Consultant is required to secure the payment of compensation of its employees in accordance with Labor Code section 3700. Consultant certifies the following:

Consultant is aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and Consultant will comply with such provisions before commencing the performance of the any work or services under the Agreement or any subcontract.

**23. EQUAL EMPLOYMENT OPPORTUNITY**

In connection with the performance of this Agreement, the Consultant will not discriminate against any employee or applicant for employment because of race, religious creed (including religious dress and grooming practices), color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, sexual orientation, gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), gender identity, gender expression, age (if 40 or over), military and veteran status, taking or requesting statutorily protected leave, or any other category protected under federal, state, or local laws,

The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during their employment, without regard to their race, religious creed (including religious dress and grooming practices), color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, sexual orientation, gender (which includes pregnancy, childbirth, breastfeeding, or related medical conditions), gender identity, gender expression, age (if 40 or over), military and veteran status, taking or requesting statutorily protected leave, or any other category protected under federal, state, or local laws. Such actions will include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. The

Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the consulting officer setting forth the provisions of this nondiscrimination clause.

The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed or disclosed the compensation of the employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.

The Consultant will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the Consultant's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The Consultant will comply with all provision of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1964, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The Consultant will include the provisions of 41 C.F.R. section 60-1.4 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance.

**24. NON-DISCRIMINATION ASSURANCE**

The Consultant agrees to carry out applicable requirements of 49 CFR Part 26 in the award and administration of U.S. DOT-assisted contracts. Further, the Consultant agrees to comply with all provisions prohibiting discrimination on the basis of race, color, or national origin of Title VI of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000d *et seq.*, and/or the Fair Employment and Housing Act Government Code section 12940 *et seq.* and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285 *et seq.*) and with U.S. DOT regulations, "Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act," 49 C.F.R. Part 21.

The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12940 *et seq.*, set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full.

In the event of the Consultant's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part

**25. CONFLICT OF INTEREST**

The Consultant warrants and represents that it presently has no interest and agrees that it will not acquire any interest that would present a conflict of interest under California Government Code §§ 1090 *et seq.* or §§ 87100 *et seq.* during the performance of services under this Agreement. The Consultant further covenants that it will not knowingly employ any person having such an interest in the performance of this Agreement. Violation of this provision may result in this Agreement being deemed void and unenforceable.

Depending on the nature of the work performed, a Consultant of WETA is subject to the same conflict of interest prohibitions that govern WETA employees and officials (Cal. Govt. Code Section 1090 *et seq.* and Cal. Govt. Code Section 87100 *et seq.* as well as all applicable federal regulations and laws). During the proposal process or the term of the Agreement, Consultant and its employees may be required to disclose financial interests.

Depending on the nature of the work performed, the Consultant may be required to publicly disclose financial interests under WETA's Conflict of Interest Code. Upon receipt, the Consultant agrees to promptly submit a Statement of Economic Interest on the form provided by WETA.

No person previously in the position of director, officer, employee or agent of WETA may act as an agent or attorney for, or otherwise represent, the Consultant by making any formal or informal appearance, or any oral or written communication, before WETA, or any officer or employee of WETA, for a period of twelve (12) months after leaving office or employment with WETA if the appearance or communication is made for the purpose

of influencing any action involving the issuance, amendment, award or revocation of a permit, license, grant or contract.

The Consultant will take all reasonable measures to preclude the existence or development of an organizational conflict of interest in connection with work performed under this Agreement and other solicitations. An organizational conflict of interest occurs when, due to other activities, relationships, or contracts, a firm or person is unable, or potentially unable, to render impartial assistance or advice to WETA; a firm or person's objectivity in performing the contract work is or might be impaired; or a firm or person has an unfair competitive advantage in proposing for award of a contract as a result of information gained in performance of this or some other Agreement.

The Consultant may not engage the services of any subcontractor or independent Consultant on any work related to this Agreement if the subcontractor or independent Consultant, or any employee of the subcontractor or independent Consultant, has an actual or apparent organizational conflict of interest related to work or services contemplated under this Agreement.

If at any time during the term of this Agreement, the Consultant becomes aware of an organizational conflict of interest in connection with the work performed hereunder, the Consultant must immediately provide WETA with written notice of the facts and circumstances giving rise to this organizational conflict of interest. The Consultant's written notice will also propose alternatives for addressing or eliminating the organizational conflict of interest. If at any time during the term of this Agreement, WETA becomes aware of an organizational conflict of interest in connection with the Consultant's performance of the work hereunder, WETA will similarly notify the Consultant. In the event a conflict is presented, whether disclosed by the Consultant or discovered by WETA, WETA will consider the conflict presented and any alternatives proposed and meet with the Consultant to determine an appropriate course of action. WETA's determination as to the manner in which to address the conflict will be final.

During the term of this Agreement, the Consultant must maintain lists of its employees, and the subcontractors and independent Consultant used and their employees. The Consultant must provide this information to WETA upon request. However, submittal of such lists does not relieve the Consultant of its obligation to assure that no organizational conflicts of interest exist. The Consultant must retain this record for five (5) years after WETA makes final payment under this Agreement. Such lists may be published as part of future WETA solicitations.

The Consultant must maintain written policies prohibiting organizational conflicts of interest and must ensure that its employees are fully familiar with these policies. The Consultant must monitor and enforce these policies and must require any subcontractors and affiliates to maintain, monitor and enforce policies prohibiting organizational conflicts of interest.

Failure to comply with this section may subject the Consultant to damages incurred by WETA in addressing organizational conflicts that arise out of work performed by the Consultant, which damages the Consultant agrees to reimburse, or to termination of this Agreement for breach.

**26. PUBLICITY**

The Consultant, its employees, subcontractors, and agents may not refer to WETA, or use any logos, images, or photographs of WETA for any commercial purpose, including, but not limited to, advertising, promotion, or public relations, without WETA's prior written consent. Such written consent will not be required for the inclusion of WETA's name on a customer list.

**27. ATTORNEYS' FEES**

If any legal proceeding should be instituted by either of the parties to enforce the terms of this Agreement or to determine the rights of the parties under this Agreement, the prevailing party in said proceeding may recover, in addition to all court costs, reasonable legal fees.

**28. WAIVER**

Any waiver of any breach or covenant of this Agreement must be in a writing executed by a duly authorized representative of the party waiving the breach. A waiver by any of the parties of a breach or covenant of this Agreement does not waive any succeeding breach or any other covenant unless specifically and explicitly stated in such waiver.

**29. SEVERABILITY**

If any provision of this Agreement is deemed invalid or unenforceable, that provision may be reformed and/or construed consistently with applicable law as nearly as possible to reflect the original intentions of this Agreement, and in any event, the remaining provisions of this Agreement remain in full force and effect.

**30. NO THIRD PARTY BENEFICIARIES**

This Agreement is not for the benefit of any person or entity other than the parties.

**31. COMPLIANCE WITH LAWS**

Consultant and its employees, agents, and subconsultants performing the Services under this Agreement must at all times comply with all applicable local, state, federal laws, ordinances, statutes, and regulations in effect at the time Services under this Agreement are performed. Consultant must indemnify and hold harmless WETA from and against any and all claims or expenses caused or occasioned directly or indirectly by its failure to so comply.

**32. APPLICABLE LAW**

This Agreement, its interpretation and all work performed under it are governed by the laws of the State of California.

**33. BINDING ON SUCCESSORS**

All of the terms, provisions and conditions of this Agreement are binding upon and inure to the benefit of the parties and their respective successors, assigns and legal representatives.

**34. ENTIRE AGREEMENT; MODIFICATION**

This Agreement, including any attachments, constitutes the entire Agreement between the parties with respect to the subject matter hereof and may not be amended except by a written amendment executed by authorized representatives of both parties. In the event of a conflict between the terms and conditions of this Agreement and the attachments, the terms of this Agreement will prevail.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement by their duly authorized officers as of the day and year first above written.

**FOR WETA:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_

**FOR THE CONSULTANT\*:**

By: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

APPROVED AS TO FORM:

By: \_\_\_\_\_

Attorney for WETA

\* *If the Consultant is a corporation, this Agreement must be executed by two corporate officers, consisting of: (1) the president, vice president or chair of the board; and (2) the secretary, assistant secretary, chief financial officer or assistant treasurer. In the alternative, this Agreement may be executed by a single officer or a person other than an officer provided that evidence satisfactory to WETA is provided demonstrating that such individual is authorized to bind the corporation or LLC (e.g. a copy of a certified resolution from the corporation's or LLC's board or a copy of the corporation's bylaws or LLC's operating agreement.)*