

WASHINGTON SUBURBAN SANITARY COMMISSION

CONTRACT FOR PROFESSIONAL SERVICES

WSSC CONTRACT NO. BL9972A94
POTOMAC BI-COUNTY SUPPLY MAIN

ARTICLES OF AGREEMENT made and concluded this the _____ day of _____, 2004, by and between the WASHINGTON SUBURBAN SANITARY COMMISSION, an agency of the state of Maryland (hereinafter referred to as the COMMISSION) and

Black & Veatch Corporation
18310 Montgomery Village Ave.
Suite 500
Gaithersburg, MD 20879

(hereinafter referred to as the CONSULTANT).

WITNESSETH

WHEREAS, the COMMISSION proposes to: construct an 84” water transmission main from a point near I-270 and Tuckerman Lane to the access shaft of the Bi-County Water Tunnel located at the intersection of Stonybrook and Beach Drives in Montgomery County, Maryland. The transmission main will convey finished water from the Potomac Water Treatment Plant to Prince George’s County.

WHEREAS, the COMMISSION desires the professional services of the CONSULTANT to: Conduct an alignment study that will develop and evaluate various alignment alternatives for the transmission main. The evaluation will assess all community, cost, engineering, construction, regulatory and environmental factors associated with each alternative. The Consultant will assist the Commission in conducting a community outreach program throughout the project and will develop a decision making model that will consider all monetary and non-monetary factors that need to be considered in selecting a final alignment. Once the Commission has selected a final alignment, the Consultant shall develop construction drawings and specifications for the selected alternative.

NOW THEREFORE, in consideration of the premises, the mutual covenants hereinafter recited and for other good, valuable and sufficient consideration, the receipt of which is hereby acknowledged, the parties hereto mutually covenant and agree as follows:

ARTICLE I: THE CONSULTANT SHALL:

- A. Furnish all services described herein in accordance with the following overall objectives:
 - 1. Develop a list of feasible alignments and installation methods (tunnel vs. open cut) and evaluate each alignment on the basis of: community impact, cost, constructability, regulatory requirements, environmental factors, etc.
 - 2. Through various stages of review and screening of alignments, develop and refine each remaining alignment alternative, providing more detail related to each area of impact.
 - 3. Assist the Commission in conducting a community outreach program as the alignment alternatives are further refined. Use information gathered through the community outreach program into the overall alignment study.
 - 4. Utilize a decision making model to assist the Commission in evaluating all factors associated with each alignment and develop a recommended alignment that considers all factors discussed above. The recommendation will be summarized in a final report that will be forwarded to the Commission and County Council's for action.
 - 5. Once the Commission has selected an alignment and method of installation for the 84" transmission main, provide all engineering services for the design of the selected alignment.
 - 6. Support the Commission in acquisition of all permits and rights-of-way required for the work.
 - 7. Assist the Commission during the bidding phase of the project
 - 8. Provide all services related to the overall objectives described above in accordance with EXHIBIT-D, Scope of Work.

- B. In consideration of the foregoing objectives, the CONSULTANT agrees to perform, but is not limited to, the following services:
 - 1. Secure permission to enter upon public and private lands, in accordance with COMMISSION guidelines, as required to perform work under this agreement. (The CONSULTANT shall use care and discretion while working on public or private property, and shall be responsible for any damages to said property incurred as a result of his operations.)
 - 2. Cause plans, reports and other documents submitted to the COMMISSION under the terms of the agreement to be signed by a principal or principals of the CONSULTANT'S firm

registered to engage in the practice of the appropriate branch of engineering in the state of Maryland.

3. Review materials supplied under Article II-A hereof and provide such additional information or data as is necessary for the completion of the project.

C. Have the following responsibilities associated with work performed under this contract:

1. The CONSULTANT shall be responsible for the quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and systems performance for all services furnished by the CONSULTANT under this Agreement. The CONSULTANT shall, without additional compensation from the COMMISSION, correct or revise any and all errors, omissions, or other deficiencies in his designs, drawings, specifications, reports, and other services.
2. The CONSULTANT acknowledges and agrees that review, approval, payment or acceptance of services required under this Agreement in no manner relieves the CONSULTANT of responsibility for the adequacy, fitness, completeness, suitability and correctness of those services.
3. The CONSULTANT shall be and remain liable for all damages to the COMMISSION as a result of negligent performance of professional engineering services by the CONSULTANT, its servants, agents, or subcontractors. Such damages may include, but are not limited to, the direct construction change order cost paid by the COMMISSION to correct deficiencies in the work including time for delay, COMMISSION staff time to inspect and manage such work, COMMISSION overhead and any other costs incurred by the COMMISSION resulting from the CONSULTANTS negligent performance of professional engineering services.
4. The CONSULTANT acknowledges and agrees to abide by the terms and conditions of THE COMMISSION security policies as set forth in Exhibit E, attached hereto and incorporated herein by reference as fully enforceable terms of this contract.

ARTICLE II: THE COMMISSION* SHALL:

- A. Furnish to the CONSULTANT existing COMMISSION maps, drawings, records of construction, operation and maintenance; standard forms, drawings, one copy of each of General Information regarding Rights-of-Way Permits and Field Survey, Standard Details, General Specifications, Amendments to the General Specifications, and certain standard specifications to be incorporated in the contract documents; and other information now available to the COMMISSION and necessary to the prosecution of the work by the CONSULTANT.
- B. Assist and make provisions for, the CONSULTANT to enter upon public and private lands as required for the CONSULTANT to perform his work under this agreement providing the CONSULTANT has exhausted all reasonable efforts to obtain this permission from the property owners involved.

***The term COMMISSION used herein includes Commission officials and/or staff members whose responsibilities are co-extensive with the requirements of Commission business related to work performed or services rendered by the CONSULTANT under this agreement.**

ARTICLE III: TIME:

The services provided for herein shall be commenced upon the date of written notice to proceed as issued by the COMMISSION to the CONSULTANT and shall be completed in accordance with the following schedule. All extensions of time beyond the deadlines hereby established must be requested of the COMMISSION'S project manager in writing by the CONSULTANT seven (7) days prior to the occurrence of such deadlines. The request should contain the actual additional time needed and a complete justification of the time extensions. All time extensions approved by the COMMISSION will be issued in writing as a formal change to this contract and as described in Article VIII. Failure to perform all work in accordance with the schedule, except where approved extensions exist, will be taken into consideration when evaluating the CONSULTANT for future work with the COMMISSION.

SCHEDULE

ITEM	TIME
Submit the Initial Alignment Alternatives (IAA) Report*	4 months following NTP
Submit the Refined Alignment Alternatives (RAA) Report*	2 months following IAA report
Submit Developed Alignment Alternatives (DAA) Report*	2 months following RAA report
Submit Final Alignment Alternatives Report	2 months following DAA Report
Revise Final Alignment Alternatives Report	1 month following receipt of comments on the Final Report
Submit 30% Design Documents*	6 months following alignment selection
Submit 60% Design Documents*	5 months following submission of 30% documents
Submit 90% Design Documents*	3 months following submission of 60% documents
Submit Bid-Ready Design Documents	2 months following receipt of Commission and final

* Within 2 weeks of receipt of commission review comments, prepare and submit a technical memorandum documenting the comments on each report or design submittal. The memorandum should identify how any outstanding issues will be reflected in the subsequent report.

ARTICLE IV: COMPENSATION:

- A. For services performed by the CONSULTANT under this contract, and as full and complete compensation therefore, except as otherwise expressly provided herein, the COMMISSION will pay to the CONSULTANT allowable costs and fees as follows:
1. Direct labor cost shall mean actual salaries and wages paid officers and employees, as limited by Exhibit B, for time directly chargeable to the project and does not include any costs incurred by the CONSULTANT while participating in the negotiation of this agreement, sub-agreements or change orders applicable to Article VIII below, nor shall it include the costs of fringe benefits paid by the CONSULTANT (such as social security contributions, unemployment, excise and payroll taxes, workmen's compensation, health and retirement benefits, bonuses, sick leave, vacation and holiday pay, etc.). A list of the CONSULTANT'S employee classifications with hourly salary range is provided in Exhibit B and shall remain in effect for the life of this contract. The CONSULTANT agrees that the salary rates as defined and presented in Exhibit B are the same as or less than the rates charged other clients for similar work. An estimate of total man-hours of each labor category, average hourly rates and estimated direct labor costs for the project appear in Exhibit A.
 2. Indirect costs (overhead shall include indirect salaries and wages plus general and administrative expenses, and shall be expressed using direct labor costs as a base). The rates for indirect costs shall be fixed at the rates specified in Exhibit A for the term of the contract and any extension thereof. Allowable costs shall be determined by the COMMISSION in accordance with applicable EPA and Federal Acquisition Regulations, and the terms of this contract. An estimate of total indirect costs for this project appear in Exhibit A.
 - a. Facilities capital cost of money and any state income taxes are not allowable costs for reimbursement purposes under this contract.
 - b. The CONSULTANT certifies that the cost and pricing data submitted to the COMMISSION for the purpose of establishing equitable costs and fees under this contract are complete, current and accurate as of the date of such submittal. If this cost and pricing data is determined by the COMMISSION at some future date not to have been complete, current and accurate as of the date above, the contract price may be subject to downward adjustment and/or recoupment accordingly, as determined by the COMMISSION.

3. Other direct costs (reimbursable expenses) and subconsultant payments shall be only those items specifically defined in Exhibit C. Reimbursement for expenses not included in Exhibit C shall be initiated only after prior approval of the COMMISSION. The CONSULTANT certifies that expenses to be reimbursed in accordance with the above are not included in any overhead figure being applied in this contract. The CONSULTANT further certifies that any direct costs do not include any unallowable costs or profit. The CONSULTANT shall also certify that expenses billed to the COMMISSION are solely for items pertaining to this contract. An estimate of total other direct costs for this project appears in Exhibit A.
4. Profit (fee) shall be defined as the difference between the total estimated cost and the price for this project. It is estimated (or fixed) as shown in Exhibit A, except in a lump sum contract, where profit is included in the total price.
5. Total Price shall mean the sum of the total direct salaries and wages, the total indirect costs (overhead), the total other direct costs (reimbursable expenses), and the total fee (profit) as shown in Exhibit A and as defined previously in this Article. The total price shall be limited in the following manner:
 - a. For cost-type contracts, the total price as shown in Exhibit A shall not be exceeded without a formal change order being issued to this contract. Any costs incurred by the CONSULTANT in excess of the total price shown in Exhibit A without a formal change order to this contract shall not be paid by the COMMISSION.

For cost contracts with fixed fee, there can be no increase in the fee without a formal change order to this contract which increases the scope of work..

- B. The CONSULTANT will submit periodic invoices for payment, but not more frequently than monthly, for work and services performed under this contract. Such invoices shall be prepared by the CONSULTANT supplemented and accompanied by supporting data which is satisfactory to the COMMISSION. A list of employees employed by the CONSULTANT to perform the direct services and their respective salary rates shall be certified and submitted to the COMMISSION with the first invoice for payment.
 1. For cost-type contracts, direct salaries and wages will be supported by names, grades, hours worked, pay rates, and payments to persons involved. (Overtime will be separately identified.)
 - a. Other direct costs (reimbursable expenses) shall be itemized as to type and supported with receipts, vouchers and other supporting data as appropriate
- C. The CONSULTANT shall submit monthly progress reports to the COMMISSION'S project manager. Said reports shall describe the CONSULTANT'S work accomplished during the month covered by the report and shall present the overall status of the CONSULTANT'S work through said month. In no case will the COMMISSION make a payment to the CONSULTANT until the progress report for that month is approved by the COMMISSION.

- D. The CONSULTANT agrees to maintain books, accounts, records, documents and other evidence directly pertinent to the performance of this contract in accordance with generally accepted accounting principles and practices consistently applied. (The foregoing constitute "records" for purposes of this contract.)

The CONSULTANT'S facilities and plants, or such part thereof as may be engaged in the performance of this contract, and records shall be subject at all reasonable times to audit, examination, inspection or reproduction by the COMMISSION, the State of Maryland, or any of their authorized representatives.

The CONSULTANTS shall preserve and make available its records until the expiration of three (3) years from the date of final payment under this contract and for such longer period, if any, as is required by applicable statute, or by other provisions of this contract, or by (1) or (2) as follows:

- (1) If the contract is completely or partially terminated, the records relating to the work terminated, shall be preserved and made available for a period of three (3) years from the date of any resulting final settlement.
- (2) Records which relate to appeals of disputes, litigation, or settlement of claims arising out of the performance of this contract shall be retained until final disposition of such appeals, litigation, or claims.

The CONSULTANT shall insert the substance of this section in each subcontract issued hereunder that is not on a firm fixed-price basis.

- E. The CONSULTANT shall vest in the COMMISSION title to all drawings, specifications contract documents, calculations, and all other data or work items produced by the CONSULTANT under this agreement, and this material shall be made available to the COMMISSION immediately upon request. The COMMISSION retains the right to acquire originals, reproducibles, and/or prints and copies of this material to suit its needs and purposes and to distribute this material to any agencies, firms and/or individuals. Subject to Exhibit E, under no circumstances shall any material produced as a result of this contract be released by the CONSULTANT to other than COMMISSION personnel without prior knowledge and approval by the COMMISSION'S project manager.
- F. Compensation for the services provided by the CONSULTANT specified under ARTICLE I shall be based on a cost reimbursement method of payment with a contract cost ceiling of \$9,940,000.00 that cannot be exceeded without a formal change order being issued to this CONTRACT. Specifically, compensation shall be based on a total multiplier of 3.05 times Direct Labor Costs, plus Other Direct Costs to be invoiced at cost, subject to Commission approval. The total multiplier includes both Indirect Costs and Profit and is computed as follows:

$$\text{Direct Labor Costs} = (1.00) \text{ times Direct Salaries}$$

Indirect Costs	=	(1.77) times Direct Labor Costs
<u>Profit</u>	=	<u>(0.28) times Direct Labor Costs</u>
Straight Multiplier	=	(3.05) times Direct Labor Costs

Compensation for the services provided by Haley and Aldrich specified under ARTICLE I shall be based on a cost reimbursement method of payment. Specifically, compensation shall be based on a total multiplier of 3.10 times Direct Labor Costs, plus Other Direct Costs to be invoiced at cost, subject to Commission approval. The total multiplier includes both Indirect Costs and Profit and is computed as follows:

Direct Labor Costs	=	(1.00) times Direct Salaries
Indirect Costs	=	(1.82) times Direct Labor Costs
<u>Profit</u>	=	<u>(0.28) times Direct Labor Costs</u>
Straight Multiplier	=	(3.10) times Direct Labor Costs

Compensation for the services provided by PEER Consultants, PC specified under ARTICLE I shall be based on a cost reimbursement method of payment. Specifically, compensation shall be based on a total multiplier of 3.10 times Direct Labor Costs, plus Other Direct Costs to be invoiced at cost, subject to Commission approval. The total multiplier includes both Indirect Costs and Profit and is computed as follows:

Direct Labor Costs	=	(1.00) times Direct Salaries
Indirect Costs	=	(1.82) times Direct Labor Costs
<u>Profit</u>	=	<u>(0.28) times Direct Labor Costs</u>
Straight Multiplier	=	(3.10) times Direct Labor Costs

Compensation for the services provided by McKissack & McKissack specified under ARTICLE I shall be based on a cost reimbursement method of payment. Specifically, compensation shall be based on a total multiplier of 3.10 times Direct Labor Costs, plus Other Direct Costs to be invoiced at cost, subject to Commission approval. The total multiplier includes both Indirect Costs and Profit and is computed as follows:

Direct Labor Costs	=	(1.00) times Direct Salaries
Indirect Costs	=	(1.82) times Direct Labor Costs
<u>Profit</u>	=	<u>(0.28) times Direct Labor Costs</u>
Straight Multiplier	=	(3.10) times Direct Labor Costs

Compensation for the services provided by A. Morton Thomas specified under ARTICLE I shall be based on a cost reimbursement method of payment. Specifically, compensation shall be based on a total multiplier of 2.79 times Direct Labor Costs, plus Other Direct Costs to be invoiced at cost, subject to Commission approval. The total multiplier includes both Indirect Costs and Profit and is computed as follows:

Direct Labor Costs	=	(1.00) times Direct Salaries
Indirect Costs	=	(1.54) times Direct Labor Costs
<u>Profit</u>	=	<u>(0.25) times Direct Labor Costs</u>
Straight Multiplier	=	(2.79) times Direct Labor Costs

Compensation for the services provided by DACCO SCI, Inc. specified under ARTICLE I shall be based on a cost reimbursement method of payment. Specifically, compensation shall be based on a total multiplier of 2.87 times Direct Labor Costs, plus Other Direct Costs to be invoiced at cost, subject to Commission approval. The total multiplier includes both Indirect Costs and Profit and is computed as follows:

Direct Labor Costs	=	(1.00) times Direct Salaries
Indirect Costs	=	(1.61) times Direct Labor Costs
<u>Profit</u>	=	<u>(0.26) times Direct Labor Costs</u>
Straight Multiplier	=	(2.87) times Direct Labor Costs

ARTICLE V: TERMINATION:

The COMMISSION may, by written notice to the CONSULTANT, terminate this contract in whole or in part at any time, either for the COMMISSION'S convenience or because of the failure of the CONSULTANT to perform services timely, failure to meet standards required, or fulfill the CONSULTANT'S obligation under this agreement. Upon receipt of such notice, the CONSULTANT shall:

- (1) immediately discontinue all services affected upon receipt of termination notice, and
- (2) deliver to the COMMISSION all designs, surveys, data, drawings, specifications, reports, computations, estimates, summaries, computer programs, and such other information and materials as may have been provided by the COMMISSION or accumulated by the CONSULTANT in performing this contract, whether completed or in progress.

If the termination is for the convenience of the COMMISSION, the CONSULTANT shall only be paid for work performed through the date of termination. The amount shall be determined in accordance with the provisions of Article IV, except where compensation is by lump sum, in which case the amount shall be determined by the percentage of the work completed. In addition, the COMMISSION shall pay all other direct costs (reimbursable expenses) which are deemed by the COMMISSION as reasonably and necessarily incurred by the CONSULTANT in terminating the work under this contract, with total compensation being limited to the total price established for services hereunder.

If the termination is due to the failure of the CONSULTANT to fulfill contract obligations, the COMMISSION may take over the work and prosecute same to completion by contract or otherwise.

In such cases, the CONSULTANT shall be liable to the COMMISSION for damages to the COMMISSION from the breach of this agreement, including reasonable attorneys' fees.

ARTICLE VI: FORCE MAJEURE:

Neither party shall be considered in default in the performance of its obligations hereunder to the extent that performance of such obligations is delayed, hindered or prevented by any cause which is beyond the reasonable control of such party (hereinafter called "Force Majeure"). Force Majeure includes but is not limited to any of the following if reasonably beyond the control of the party claiming Force Majeure: war (declared or undeclared), blockages, hostilities, revolutions, riots, strikes, lockouts or other labor disturbances, epidemics, fires, storms, delays or interruptions in transportation, or any laws, regulations or ordinances of any government, governmental agency or court having or claiming to have jurisdiction over any part of the services, including laws, regulations or ordinance pertaining to the protection of the environment, or obtaining permits required by any such government, governmental agency or court, or any other cause (whether or not of kinds specifically mentioned herein) that is not reasonably within the control of the party claiming Force Majeure.

Either party hereto shall give notice promptly within seven (7) calendar days of the nature and extent of any Force Majeure claimed to delay, hinder or prevent performance of the services under this contract or any negotiated change order. Failure to do so shall constitute a waiver of any claim hereunder.

ARTICLE VII: SUSPENSION:

The COMMISSION may at any time, suspend, delay, interrupt, or stop the performance of any or all of the services by written notice to the CONSULTANT. In the event of such suspension of services, all allowable costs which are deemed by the parties hereto as reasonably and necessarily incurred by the CONSULTANT in suspending the services shall be paid by the COMMISSION, including all costs incurred during the period of suspension and additional costs incurred in reactivating the services. Such payment shall not duplicate costs included under any prior progress payments. The CONSULTANT must itemize the costs involved, provide satisfactory documentation as required by the COMMISSION, and must demonstrate that such services as were provided during the suspension were in direct support of overall services to be performed. Both parties also recognize that the COMMISSION may impliedly suspend the services by delays in its review, comment and action on the submitted data, plans, reports, and other documents transmitted to the COMMISSION and for which there shall be no additional compensation.

ARTICLE VIII: CHANGES:

- A. The COMMISSION may, at any time, by written order, make changes within the general scope of this agreement in the services or work to be performed. If such changes cause an increase or decrease in the CONSULTANT'S cost of, or time required for, performance of any services under this agreement, whether or not changed by any order, an equitable adjustment shall be made and this agreement shall be modified in writing accordingly. Any claim of the CONSULTANT for adjustment under this clause must be asserted in writing within fourteen (14) days from the date of receipt by the CONSULTANT of the notification of change unless the COMMISSION grants a further period of time before the date of final payment under this agreement.
- B. No services for which an additional compensation will be charged by the CONSULTANT shall be furnished without the written authorization of the COMMISSION.

ARTICLE IX: DISPUTES:

Except as otherwise specifically provided in this contract, all disputes concerning any and all issues arising out of or touching upon this contract shall be decided by the appropriate Commission Group Leader subject to written appeal by the CONSULTANT within thirty (30) days to the Contracting Officer or his duly authorized representative, whose decision shall be final and conclusive upon the parties thereto. In the meantime, the CONSULTANT shall diligently proceed with the work as directed. It is further agreed that the above

procedures will be considered a condition precedent to litigation and payment. For the purposes of this Article the appropriate Group shall be that from which the COMMISSION'S designated project manager is assigned.

ARTICLE X: LITIGATION:

- A. It is understood and agreed that the compensation herein provided to be paid by the COMMISSION is for the services of the CONSULTANT on the project as described herein and does not include any assistance in preparation for or during the progress of litigation or arbitration to which the COMMISSION is a party, unless specifically required by the services to be performed by the CONSULTANT in Article I.B. The CONSULTANT agrees to assist the COMMISSION in matters of litigation upon request and upon reasonable compensation to be negotiated for such services requested. The CONSULTANT shall not be entitled to any compensation for any assistance or services requested or rendered in any matter involving claims by third parties against the COMMISSION arising out of the fault or negligence on the part of the CONSULTANT or his agents.
- B. The CONSULTANT agrees to full compliance with Maryland Law governing out of state foreign corporations doing business within the state of Maryland and, where applicable, to notify the COMMISSION of the name of the registered agent in Maryland and the agent's address.

ARTICLE XI: COVENANT AGAINST CONTINGENCY FEES:

The undersigned person authorized to execute this proposal on behalf of the professional engineer, architect or registered land surveyor, or the firm or corporation offering services hereunder, warrants that he or she or any member of the contracting firms has not employed or retained any representative, individual or firm, other than a bona fide employee working solely for the contracting professional or firm to solicit or secure any contracts hereunder and furthermore warrants that there has not been any payment or promise or agreement to pay anyone a fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award of a contract under this proposal.

For the breach or violation of this provision, the COMMISSION shall have the right to terminate any contract or agreement resulting from this proposal without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount or the value of such fee, commission, percentage, gift, or consideration. This right of recovery by the COMMISSION shall not be a bar to any charges or violations of any federal, state or local law brought before a court of competent jurisdiction by any party, including the COMMISSION.

ARTICLE XII: INDEMNIFICATION AGREEMENTS:

A. PROFESSIONAL LIABILITY

The CONSULTANT shall defend, indemnify and save harmless the COMMISSION from all suits, actions and damages or costs of every name and description, including reasonable attorneys' fees to which the COMMISSION may be subject or put by reason of injury to persons (bodily injury, including death, or

any personal injury) or property damage as a result of CONSULTANT'S professional engineering services, whether caused or alleged to be caused by the negligence or willful acts of misconduct on the part of the CONSULTANT, his servants or agents. Monies to become due the CONSULTANT under the contract as may be considered necessary by the COMMISSION shall be retained by the COMMISSION until such suits or claims for damages shall have been settled or until the CONSULTANT furnishes to the COMMISSION satisfactory evidence of insurance coverage with respect to such suits or claims or post a bond in the amount of the dispute in a form satisfactory to the Commission.

B. GENERAL LIABILITY

The CONSULTANT shall defend, indemnify and save harmless the COMMISSION from all suits, actions and damages or costs of every name and description, including reasonable attorney's fees to which the COMMISSION may be subject or put by reason of injury to persons (bodily injury, including death, or any personal injury) or property damage as a result of the work, whether caused or alleged to be caused by the negligence or willful acts of misconduct on the part of the CONSULTANT, his servants or agents, (other than arising out of CONSULTANT'S professional engineering services). Monies to become due the CONSULTANT under the contract as may be considered necessary by the COMMISSION shall be retained by the COMMISSION until such suits or claims for damages shall have been settled or until the CONSULTANT furnishes to the COMMISSION satisfactory evidence of insurance coverage with respect to such suits or claims or post a bond in the amount of the dispute in a form satisfactory to the Commission.

ARTICLE XIII: INSURANCE

CERTIFICATES OF INSURANCE

The CONSULTANT shall, in addition, instruct his insurance agent or carrier to furnish to the COMMISSION certificates of insurance attesting to the issuance of insurance policies affording coverages as required and listed in the following pages of this section.

COMPREHENSIVE GENERAL LIABILITY INSURANCE

The COMMISSION and its employees, while such employees are performing work on behalf of the Commission, are to be named an additional insured on this policy including the add-on coverage as indicated below:

	Bodily Injury \$500,000 each occurrence Property Damage \$100,000 each occurrence
Blanket Contractual Coverage	Bodily Injury \$500,000 each occurrence Property Damage \$100,000 each occurrence
Independent Contractor Coverage	Bodily Injury \$500,000 each occurrence Property Damage \$100,000 each occurrence

Personal Injury Coverage
(Sections A, B & C) \$500,000 each aggregate

WORKER'S COMPENSATION Section A - Statutory limits of state in which work
INSURANCE is to be performed

Section B - (Employers Liability) \$100,000 each accident

Waiver of Subrogation applicable to the COMMISSION and its employees while such employees are performing work for or on behalf of the COMMISSION.

COMPREHENSIVE AUTOMOBILE Bodily Injury \$250,000 each person

LIABILITY INSURANCE \$500,000 each occurrence
(Applicable to owned, non-owned Property Damage \$100,000 each occurrence
and hired vehicles)

Waiver of Subrogation applicable to the COMMISSION and its employees while such employees are performing work for or on behalf of the COMMISSION.

EXCESS LIABILITY COVERAGE (UMBRELLA)

The CONSULTANT shall instruct his insurance representative to file a certificate of insurance attesting to excess liability coverage if such coverage is in effect. However, this coverage is not mandatory. The Claims and Insurance Manager reserves the right to require excess liability coverage in the amount of \$1,000,000 each occurrence with a retention rate not to exceed \$50,000 where no underlying coverage exists when, upon reviewing a proposal contract, it is determined that work to be performed under the contract necessitates such coverage.

PREMIUM PAYMENTS AND COMMISSION ACCEPTANCE

The premium to be expended for all of the above-mentioned policies of insurance shall be paid by the CONSULTANT. The policies of insurance, certificates of insurance and the insurance company or insurance companies issuing such policies or certificates of insurance must be acceptable to this COMMISSION.

DESIGNATION AS TO WHERE COVERAGE APPLICABLE

All policies or certificates of insurance must be issued indicating that such policy or certificates are applicable to work being performed under a specific contract or to all work performed by the CONSULTANT for the COMMISSION.

ARCHITECTS/ENGINEERS PROFESSIONAL LIABILITY COVERAGE

The consultant shall also provide the COMMISSION with a certificate of insurance for the Architects/Engineers Professional Liability Coverage carried by the firm.

NOTIFICATION OF ALTERATION OR MATERIAL CHANGE OR CANCELLATION

A minimum of thirty (30) days written notification must be given by an insurer of any alteration, material change or cancellation affecting any certificates or policies of insurance as required under this contract. Such required notification must be sent via registered or certified mail to the address and person as indicated below:

Washington Suburban Sanitary Commission
14501 Sweitzer Lane
Laurel, Maryland 20707

Attention: Technical Services Group
Bonds & Insurance

POLICY PERIOD

Policies and certificates of insurance must be issued prior to a CONSULTANT being able to proceed with work under contract. Policies and certificates of insurance must clearly indicate that they will remain in force for a period of at least one year from inception date or until the project is completed by CONSULTANT and accepted by the COMMISSION.

MISCELLANEOUS INFORMATION

Nothing to be contained in contract between a CONSULTANT (architect/engineer) and this COMMISSION shall require that a CONSULTANT (architect/engineer) obtain insurance to cover willful acts of misconduct. However, it should be clearly understood that the CONSULTANT (architect/engineer) is responsible for the willful acts of misconduct of such CONSULTANT (architect/engineer), his servants or agents.

ARTICLE XIV: PROJECT MANAGEMENT*

The COMMISSION and the CONSULTANT shall each designate a project manager within fourteen (14) days from date of this agreement to represent each party respectively and be responsible as the individual in charge of administering and carrying out provisions of this agreement. Once so designated by the CONSULTANT this project manager shall not be changed unless specifically allowed or requested by the COMMISSION. The CONSULTANT shall advise the COMMISSION of the project manager's qualifications and the

* For the purpose of the contract, the right of approval shall also include key lead discipline engineers as defined on EXHIBIT B.

COMMISSION shall have the right of approval or rejection of the CONSULTANT'S designated project manager.

ARTICLE XV: EPA REGULATIONS - CONSULTING ENGINEER AGREEMENTS

The parties hereto understand and agree that U. S. Environmental Protection Agency and Federal Procurement Regulations are applicable to any grant eligible work performed under this agreement. The applicable regulations include 40CFR30.705 and 41CFR1-15.4 (allowable costs), and 40CFR35, Appendix C-1 (Required Provisions - Consulting Engineering Agreements) or such regulations as are in effect on the date of execution of this agreement. In the event of any conflict between provisions of this agreement and the EPA Regulations, the EPA Regulations shall govern.

ARTICLE XVI: ASSIGNMENT

This agreement is binding on the heirs, successors, and assigns of the parties hereto, and is not to be assigned by either party without first obtaining the consent of the other.

ARTICLE XVII: MBE PARTICIPATION

In accordance with the COMMISSION'S Standard Procedure for Minority Business Enterprise Programs, the CONSULTANT has agreed to subcontract 30 percent of the contract value to a certified minority firm(s).

ARTICLE XVIII: NONDISCRIMINATION POLICY

Discrimination in any manner against any employee or applicant for employment by the Consultant on the basis of sex, race, creed, color, age, mental or physical handicap, sexual orientation, or national origin is prohibited. Failure of the Consultant to comply with this provision may result in Termination of the Contract.

ARTICLE XIX: ENTIRE AGREEMENT

This contract constitutes the entire agreement between the parties and except for modifications prepared in accordance with provisions herein, there are no other collateral contracts or agreements concerned between the parties contracting hereto.

Nothing contained in this agreement shall be construed as creating any personal liability on the part of an officer, employee, or agent of the COMMISSION, including the Commissioners individually.

IN WITNESS WHEREOF, the parties herein have executed this agreement under seal on the day and year first written above.

CONSULTANT _____ (Seal)

Witness

By _____
On behalf of the Consultant

Date: _____

Title _____

Address _____

FOR WASHINGTON SUBURBAN SANITARY COMMISSION

This agreement has been reviewed and approved
for form and legal sufficiency

By: _____

Reviewed and approval recommended.

By: _____

Richard R. Shagogue
Chief Engineer

Witness

By _____

P. Michael Errico, Deputy General Manager

Date: _____

Date: _____

Attachments:

- Exhibit A - Total Price Summary
- Exhibit B - Salary Ranges
- Exhibit C - Other Direct Costs (Reimbursable Expenses)
- Exhibit D - Scope of Work
- Exhibit E – Document Security and Site Access Procedures

A.