

## **PERSONAL SERVICES CONTRACT**

THIS CONTRACT FOR PERSONAL SERVICES is made by and between Nueces County hereinafter “**County**” and Trace Finley, hereinafter called “**Contractor**” for the purpose of contracting for personal services.

### **WITNESSETH**

**WHEREAS**, Local Government Code, Chapter 262.024, provides for the procurement of personal services; and

**WHEREAS**, the County desires to contract for personal services described as follows:

Consulting work related to County’s activities associated with state natural resource and regulatory agencies;

**NOW, THEREFORE**, the County and the Contractor, in consideration of the mutual covenants and agreements herein contained, do hereby mutually agree as follows:

### **AGREEMENT**

#### **ARTICLE 1**

#### **SCOPE OF SERVICES TO BE PROVIDED BY COUNTY AND CONTRACTOR**

County hereby agrees to perform those tasks and services described in Attachment A, which is attached hereto and made a part thereof this contract.

Contractor hereby agrees to perform those tasks and services described in Attachment B, which is attached hereto and made part thereof of this contract.

#### **ARTICLE 2**

#### **CONTRACT PERIOD**

This contract shall begin on October 1, 2016 and shall terminate at the close of business on September 30, 2017, unless extended by supplemental agreement duly executed by the Contractor and the County prior to the date of termination, as provided in Article 9 – Supplemental Agreements, or otherwise terminated, as provided in Article 16 – Termination. Any work performed or cost incurred after the date of termination shall be ineligible for reimbursement.

#### **ARTICLE 3**

#### **COMPENSATION AND METHOD OF PAYMENT**

The maximum amount payable under this contract is \$12,000.00, unless modified as provided in Article 9 – Supplemental Agreements. Maximum amount payable is not inclusive of any reimbursable expenses as set out below.

Payments will be made on a monthly basis at \$1,000.00 per month.

The Contractor shall prepare and submit County monthly invoices and a progress report stating the status and description of the work accomplished during the billing period to the Nueces County Judge as representative(s) of the County.

The County reserves the right to withhold payment pending verification of satisfactory work.

The County will pay reasonable expenses incurred relative to the Contractor's duties, including travel expense, long distance telephone calls, special mailing and delivery expenses; provided however, that any expenses in excess of two-hundred fifty dollars (\$250) per month in the aggregate must have the prior approval of the County. Expenses other than those specifically delineated above will require prior approval of the County. The County will reimburse the Contractor for these expenses on a monthly basis upon receipt of a statement which shall itemize the expenses with specificity.

**The County assumes no liability for work performed or costs incurred prior to the effective date of this agreement during periods when work is suspended, or subsequent to the contract completion date.**

#### **ARTICLE 4 WORK AUTHORIZATIONS**

**[Specifically Excluded]**

#### **ARTICLE 5 PROGRESS**

The Contractor shall, from time to time during the progress of the work, confer with the County. The Contractor shall prepare and present such information as may be pertinent and necessary, or as may be requested by the County, in order to evaluate features of the work. Upon request by the County, the Contractor shall make presentations to the Commissioners Court.

At the request of the County or the Contractor, conferences shall be held at the Contractor's office, the County office, or at other locations designated by the County. These conferences shall also include an evaluation of the Contractor's services and work when requested by the County.

The Contractor shall promptly advise the County through the Nueces County Judge in writing of events which have a significant impact upon the progress of work, including:

- (1) problems, delays, or adverse conditions which will materially affect the ability to attain contract objectives, prevent the meeting of time schedules and goals,

or preclude the attainment of project work units by established time periods; this disclosure will be accompanied by a statement of the action taken, or contemplated, and any County assistance needed to resolve the situation; and

- (2) favorable developments or events which would enable meeting the work schedule goals sooner than anticipated.

## **ARTICLE 6 SUSPENSION**

The County may suspend the work, but not terminate the contract, by giving written notice a minimum of two (2) calendar days prior to the date of suspension. The two (2) day notice may be waived if approved in writing by the parties.

The work will be reinstated and resumed in full force and effect within ten (10) calendar days of receipt of written notice from the County to resume the work. The ten (10) day notice may be waived if approved in writing by both parties.

If the County suspends the work, the contract period, as determined in Article 2 – Contract Period, is not affected and the contract will terminate on the date specified unless the contract is amended as provided in Article 9 – Supplemental Agreements.

## **ARTICLE 7 ADDITIONAL WORK**

If the Contractor determines that any work it has been directed to perform is beyond the scope of this agreement and constitutes extra work, it shall promptly notify the County through the Nueces County Judge in writing. In the event the County determines that such work constitutes extra work and exceeds the maximum amount payable, the County shall so advise the Contractor and a supplemental agreement may be executed, as provided in Article 9 – Supplemental Agreements. In the event any extra work is specific to a particular Local Governmental Entity then that Local Governmental Entity shall be responsible for the additional payment.

The Contractor shall not perform any additional work or incur any additional costs prior to the execution, by all parties, of a supplemental agreement. The County shall not be responsible for actions by the Contractor or any costs incurred by the Contractor relating to additional work not directly associated with the performance of the work authorized in this contract or as amended.

## **ARTICLE 8 CHANGES IN WORK**

If the County finds it necessary to request changes to previously satisfactorily completed work or parts thereof which involve changes to the original scope of services or character

of work under the contract, the Contractor shall make such revisions if requested and as directed by the County. This will be considered additional work and paid for as specified under Article 7 – Additional Work.

The Contractor shall make such revisions to the work to correct errors appearing therein, when required to do so by the County. No additional compensation will be paid for the correction of errors.

## **ARTICLE 9 SUPPLEMENTAL AGREEMENTS**

The terms of this contract may be modified by supplemental agreement if the County determines that there has been a significant change in the scope, complexity, or character of the service to be performed, or the duration of the work. Additional compensation, if appropriate, shall be identified as provided in Article 3 – Compensation and Method of Payment.

Any supplemental agreement must be executed by both parties within the contract period specified in Article 2 – Contract Period.

**No claim for extra work done shall be made by the Contractor until full execution of the supplemental agreement and authorization to proceed is issued by the County. The County reserves the right to withhold payment pending verification of satisfactory work performed.**

## **ARTICLE 10 PUBLIC INFORMATION ACT**

All data, and other documents created or collected under the terms of this contract are the exclusive property of the County and shall be furnished to the County upon request. All documents prepared by the Contractor and all documents furnished to the Contractor by the County shall be delivered to the respective County upon completion or termination of this contract. The Contractor, at its own expense, may retain copies of such documents or any other data which it has furnished the County under this contract. Release of information will be in accordance with the Texas Public Information Act.

## **ARTICLE 11 SUBCONTRACTING**

The Contractor shall not assign, subcontract or transfer any portion of the work under this contract. All work under this contract shall be performed by Contractor personally.

## **ARTICLE 12 EVALUATION OF WORK**

The County and its authorized representatives shall have the right at all reasonable times to review or otherwise evaluate the work performed or being performed hereunder. If a review or evaluation is being made on the premises of the Contractor, the Contractor shall provide all reasonable facilities and assistance for the safety and convenience of the County representatives in the performance of their duties. If funds by other agencies or entities are to be used for payment of the services under this contract, the Contractor's services and work may be subject to periodic review and approval by other agencies or entities, including city, county, state, and/or federal agencies.

**ARTICLE 13  
SUBMISSION OF REPORTS**

All applicable study reports shall be submitted in preliminary form for review by the County before a final report is issued. The County's comments on the Contractor's preliminary report shall be addressed in the final report.

**ARTICLE 14  
COMPUTER DOCUMENTS AND INFORMATION EXCHANGE**

All computer files must be compatible with the County's computer systems without conversion or modifications.

All graphics media provided by the Contractor shall be delivered to the County.

**ARTICLE 15  
VIOLATION OF CONTRACT TERMS / BREACH OF CONTRACT**

Violation of the contract terms or breach of contract by the Contractor shall be grounds for termination of the contract and any increased cost arising from the Contractor's default, breach of contract, or violation of contract terms shall be paid by the Contractor. This agreement shall not be considered as specifying the exclusive remedy for any default, but all remedies existing at law and in equity may be availed of by either party and shall be cumulative.

**ARTICLE 16  
TERMINATION**

This contract shall terminate at the close of business on September 30, 2017 unless extended as provided in Article 9 – Supplemental Agreements.

This contract may be terminated before the stated termination date by any of the following conditions:

1. By mutual agreement and consent, in writing, of parties;

2. By the County, by notice in writing to the Contractor as a consequence of failure by the Contractor to perform the services set forth herein in a satisfactory manner;
3. By any party, upon the failure of the other party to fulfill its obligations as set forth herein;
4. By the County, for reasons of its own and not subject to the mutual consent of the Contractor upon not less than thirty (30) calendar days written notice to the Contractor; and
5. By written notice from the County upon satisfactory completion of all services and obligations described herein.

Should the County terminate this contract as herein provided, no fees other than fees due and payable at the time of termination shall thereafter be paid to the Contractor. In determining the value of the work performed by the Contractor prior to termination, the County shall be the sole judge. Compensation for work at termination will be based on a percentage of the work completed at that time.

If the Contractor defaults in the performance of this contract or if the County terminates this contract for fault on the part of the Contractor, the County will give consideration to the actual costs incurred by the Contractor in performing the work to the date of default, the amount of work which was satisfactorily completed to the date of default, the value of the work which is usable to the County, the cost to the County of employing another to complete the work required and the time required to do so, and other factors which affect the value to the County of the work performed at the time of default.

The termination of this contract and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of the respective terminating Local Governmental Entity and the Contractor under this contract except the obligations set forth in Articles 10, 12, 17, 18, 19, and 20 of this contract. If the termination of this contract is due to the failure of the Contractor to fulfill its contract obligations, the County may take over the project and prosecute the work to completion. In such case, the Contractor shall be liable to the County for any additional cost occasioned to the County.

## **ARTICLE 17 COMPLIANCE WITH LAWS**

The Contractor shall comply with all applicable Federal, State, and local laws, statutes codes, ordinances, rules, and regulations, and the orders and decrees of any court, or administrative bodies or tribunals, in any manner affecting the performance of this

contract. When required, the Contractor shall furnish the County with satisfactory proof of its compliance.

It is expressly understood by County and Contractor, that from the date of award of Contractor to one year after termination or expiration of contract term, it is prohibited for any county official or employee thereof, to receive gifts described by section 5.02 of the County Personnel or Civil Service Rules, and/or campaign or political contributions regardless of amount from Contractor or principal owners of said Contractor. County official is defined as those individuals described as county and precinct officers in Subchapter B of Chapter 152 of the Local Government Code. Contractor is furthermore prohibited from making political campaign or personal contributions to candidates for county and precinct office from the date of award of Contractor to one year after termination or expiration of contract term. It is also prohibited for Contractor to contribute to employee associations or for the benefit of groups of employees.

## **ARTICLE 18 INDEMNIFICATION**

**THE CONTRACTOR SHALL SAVE HARMLESS THE COUNTY AND ITS OFFICERS AND EMPLOYEES FROM ALL CLAIMS AND LIABILITY DUE TO ACTIVITIES OF ITSELF, ITS AGENTS, OR EMPLOYEES PERFORMED UNDER THIS CONTRACT AND WHICH ARE CAUSED BY OR RESULT FROM ERROR, OMISSION, OR NEGLIGENT ACT OF THE CONTRACTOR OR OF ANY PERSON EMPLOYED BY THE CONTRACTOR. THE CONTRACTOR SHALL ALSO SAVE HARMLESS THE COUNTY FROM ANY AND ALL EXPENSE, INCLUDING, BUT NOT LIMITED TO, ATTORNEY FEES WHICH MAY BE INCURRED BY THE COUNTY IN LITIGATION OR OTHERWISE RESISTING SAID CLAIM OR LIABILITIES WHICH MAY BE IMPOSED ON THE COUNTY AS A RESULT OF SUCH ERROR, OMISSION, OR NEGLIGENT ACTIVITY BY THE CONTRACTOR.**

## **ARTICLE 19 CONTRACTOR'S RESPONSIBILITY**

The Contractor shall be responsible for the accuracy of its work and shall promptly make necessary revisions or corrections resulting from its errors, omissions, or negligent acts without compensation.

**ARTICLE 20**  
**RETENTION, AVAILABILITY OF RECORDS AND AUDIT REQUIREMENTS**

The Contractor shall maintain all books, documents, papers, accounting records, and other evidence pertaining to cost incurred and shall make such materials available at its office during the contract period and for four (4) years from the date of final payment under this contract or until pending litigation has been completely and fully resolved, whichever occurs last. The County or any of its duly authorized representatives shall have access during normal business hours to any and all books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purpose of making audits, examinations, excerpts, transcriptions, and for checking the amount of work performed by the Contractor.

**ARTICLE 21**  
**SUCCESSORS AND ASSIGNS**

The Contractor and the County do hereby bind themselves, their successors, executors, administrators, and assigns to each other party of this agreement and to the successors, executors, administrators, and assigns of such other party in respect to all covenants of this contract.

The Contractor shall not assign, subcontract, or transfer its interest in this contract without the prior written consent of the County.

**ARTICLE 22**  
**SEVERABILITY**

In the event any one or more of the provisions contained in this contract, for any reason, shall be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision thereof and; this contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

**ARTICLE 23**  
**PRIOR CONTRACT SUPERSEDED**

This contract constitutes the sole agreement of the parties hereto and supercedes any prior understandings or written or oral contracts between the parties respecting the subject matter defined herein.



**ARTICLE 24  
NOTICES**

All notices from one party to another, required under this contract, shall be personally delivered or mailed to such party at the following respective address:

**COUNTY**

**CONTRACTOR**

County Judge  
901 Leopard St., Rm. 303  
Corpus Christi, Texas 78401

Trace Finley  
9600 Escarpment Blvd. Ste. 745, Box 85  
Austin, TX 78739

**ARTICLE 25  
VENUE AND GOVERNING LAW**

Venue shall be in Nueces County. This Agreement shall be construed under and in accord with the law of the State of Texas.

IN WITNESS WHEREOF, effective upon October 1, 2016.

**COUNTY OF NUECES**

**CONTRACTOR**

By: \_\_\_\_\_  
**County Judge**

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
**County Clerk**

**List of Attachments**

Attachment A – Services to be provided by County

Attachment B – Services to be provided by Contractor