

***TIFA***

*JULY 20, 2023*

## *AGENDA*

**TIFA LLC MEETING AGENDA**  
**July 20, 2023**  
**11:00 a.m.**  
**MEETING LOCATION**  
**CITY OF TITUSVILLE**  
**CITY HALL, COUNCIL CHAMBER, SECOND FLOOR**  
**555 S. WASHINGTON AVENUE – TITUSVILLE, FLORIDA**  
**Call in Number:**  
(US) 1-877-304-9269 (PIN: 480560)

**Roll Call**

**Action Items**

- I. Approval of the Minutes of the TIFA LLC Meeting June 15, 2023 (Presenter: Jeremy Lebrun)
- II. Review and Consideration of Action on the Agreement with AECOM for the TIFA Area IV Wellfield Operational Resiliency Study

**Financial Items and Reports**

- III. Ratification of Expenses Paid from Operating Account and Request for Reimbursement (Presenter: Jeremy Lebrun)

**Staff Reports / Informational Items**

- IV. Presentation of Resiliency Options & Discussion by FPL

**Other Business**

**Public Comment**

**Next Scheduled Meeting**

**Open Items**

**Adjournment**

*Any person who decides to appeal any decision of the TIFA Members with respect to any matter considered at this meeting will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.*

*TIFA desires to accommodate persons with disabilities. Accordingly, any physically handicapped person, pursuant to Chapter 286.26 Florida Statutes, should, at least 48 hours prior to the meeting, submit a written request to the chairperson that the physically handicapped person desires to attend the meeting.*

*FIRST ORDER OF BUSINESS*

Date: July 20, 2023

To: TIFA LLC Management Committee

From: Sarah Sweeting, GMS, LLC

Subject: Approval of Minutes – June 15, 2023 TIFA LLC Meeting

**Summary Explanation & Background:** The draft minutes of the June 15, 2023 TIFA LLC meeting were previously circulated for review. The minutes of the TIFA LLC meeting are presented for review and approval. Since the draft minutes were circulated, no comments have been received.

**Source of Funds:** This action requires no funds.

Minutes of TIFA LLC Meeting  
June 15, 2023  
11:01 a.m.  
City Hall Council Chamber, Second Floor  
555 S. Washington Avenue  
Titusville, Florida

Persons in Attendance

Robbie E. Lee, Jr., Miami Corp. Management, LLC, TIFA Management Committee Member  
Tom Abbate, City of Titusville, TIFA Alternate Management Committee Member  
Kevin Cook, City of Titusville, Public Works Director  
Richard Broome, City of Titusville, City Attorney  
Gene DeMayo, City of Titusville, Water Production Superintendent  
Helen Hutchins, Farmton Water Resources (by telephone)  
Jeremy LeBrun, GMS LLC

Jeremy LeBrun conducted the meeting.

**Roll Call**

**Action Items**

**I. Approval of the Minutes of the TIFA LLC Meeting of May 18, 2023 (Presenter: Jeremy LeBrun)**

Member Lee moved to approve the May 18, 2023 meeting minutes as presented. Member Abbate concurred and the motion passed.

**II. Scoring and Consideration of Action on RFP Submissions**

Mr. LeBrun: I received a scoring sheet from the city and will read the scores:  
Kevin Cook, score for AECOM was 15 points for organization experience, 30 points for staff qualifications and experience, project approach was 25 points, fee was 30 points for a total possible score of 100 and they were ranked no. 1. The next score sheet was from Jim Boyd and Helen Hutchins representing Farmton Water Resources, LLC. AECOM, organizational experience 14 points, staff qualifications and experience 29 points, project approach 22 points, fee 28 points for a total score of 93 points out of 100. Both score sheets ranked AECOM with rank of no. 1.

Ms. Hutchins: We submitted an RFP out to for a broad response and only received one response. We verified with procurement with the city that it would be acceptable for us to accept

the single proposal should it meet our RFP requirements. We went through the process of reviewing the RFP, we had two individuals from the city and two individuals from Farmton Water Resources to form the committee to provide scoring on the RFP and decided on its responsiveness and adequacy on all matters. It is my understanding that AECOM is an existing vendor with the city, that the city has had a good relationship with and that was a portion of our consideration here, that we know that they have a good relationship with the city already. While reviewing the proposal we submitted a couple clarification questions and a request to slightly adjust the scope of the proposal and yesterday we received confirmation back from AECOM that they were willing to accept the adjustment. Gene has the questions that were submitted to AECOM for your review. Gene, have you provided those to the managers?

Mr. DeMayo: Yes.

Mr. LeBrun: I have one for the records.

Ms. Hutchins: The original proposal as requested in the RFP is that we would have AECOM or whatever vendor provide some service to three separate scenarios where TIFA runs and builds the entire thing. We requested AECOM to provide two scenarios where TIFA builds and runs the entire project then consider that in comparison with the proposal that FPL has provided us for their full-service resiliency product. AECOM has agreed to adjust the scope to reflect that and to keep the price consistent with what was in the proposal so there will be no increase in price for the requested change of scope. The overall next step we are requesting of the managers is we are requesting authorization for us to enter into contract with AECOM as defined in the scope as amended by the additional questions at the fixed fee that was indicated in the AECOM proposal. I'm also open to any questions the managers may have.

Member Lee moved to authorize Farmton to enter into contract with AECOM as defined in the scope as amended by the additional questions and at the fixed fee as indicated in the proposal. Member Abbate concurred and the motion passed.

Ms. Hutchins: Staff will work with AECOM to get a contract in hand for the next meeting with the managers and get this project underway.

Mr. Abbate: I have an update on the FPL resiliency project. They will be phoning in at the next manager's meeting to give a presentation.

Ms. Hutchins: The information that FPL will be providing to us we will provide to AECOM so they can use that in their study.

### **Financial Items and Reports**

#### **III. Ratification of Expenses Paid from Operating Account and Request for Reimbursement (Presenter: Jeremy LeBrun)**

Member Lee moved to ratify the expenses paid from the operating account and request for reimbursement in the amount of \$17,444.88. Member Abbate concurred and the motion passed.

#### **IV Presentation of Financial Statements**

Ms. Hutchins: You will see our May 31, 2023 financial statements, the balance sheet, profit and loss budget versus actual through May 31, 2023 and we are slightly ahead of water sales that will be reduced July 1.

Member Lee moved to accept the May 31, 2023 financial statement. Member Abbate concurred and the motion passed.

#### **V. Consideration of Capital Distribution Notice**

Ms. Hutchins: With the approval of the financial statements for May 31, 2023 we reviewed the cash balance in TIFA at the same time and any cash on hand in excess of the agreed upon retained cash balance we review for distribution to the partners. We have approximately \$270,000 to distribute to our members.

Member Lee moved to approve the capital distribution notice in the amount of \$270,000 in total or \$135,000 each. Member Abbate concurred and the motion passed.

#### **Staff Reports/Informational Items**

#### **Other Business**

#### **Public Comment**

#### **Next Scheduled Meeting**

The next scheduled meeting is July 20, 2023 at 11:00 a.m. in the same location.

#### **Open Items**

#### **Adjournment**

Member Abbate moved to adjourn the meeting at 11:15 a.m. Member Lee concurred and the meeting adjourned.



## *SECOND ORDER OF BUSINESS*

**CONSULTING SERVICES AGREEMENT**  
**BETWEEN TIFA LLC AND AECOM TECHNICAL SERVICES, INC.**  
**FOR TIFA AREA IV WELLFIELD**  
**OPERATIONAL RESILIENCY STUDY PROJECT**

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THIS AGREEMENT is entered into by and between TIFA LLC (“TIFA” or “Owner”), a limited liability company established in the State of Florida, and AECOM Technical Services, Inc. (“Consultant” or “AECOM”), an Engineering Consulting Firm, whose principal office is located at 150 N. Orange Avenue, Suite 200, Orlando, Florida 32801.

**WITNESSETH THAT:**

WHEREAS, TIFA desires to engage a Florida licensed engineering consulting firm who has special and unique competence and experience providing engineering design consulting services for evaluating the operational resiliency of potable water wellfields; and,

WHEREAS, the Consultant is an engineering consulting firm authorized to conduct business in the state of Florida, and Consultant desires to provide such consulting services in accordance with this Agreement, and represents that it has such competence and experience in providing these services; and,

WHEREAS, the Consultant has agreed to provide labor, materials, equipment, transportation, supporting documentation, and all other products, services, or facilities necessary for Consultant’s complete performance pursuant to the Contract Documents identified herein (the “Work”); and,

WHEREAS, the TIFA Board has duly considered and awarded this contract to the Consultant,  
and,

WHEREAS, TIFA and Consultant desire to enter into an agreement for the performance by the Consultant of engineering design and other related consulting services for the TIFA Area IV Wellfield, Operational Resiliency Study Project as more specifically described herein; and,

WHEREAS, the Consultant shall at all times be in privity of contract solely with TIFA, and shall rely solely upon directions received from the Project Administrator, designated by TIFA, regarding performance and acceptance of the Work.

NOW, THEREFORE, in consideration of the aforesaid premises, which are hereby made a part of this Agreement, and the mutual undertakings set forth herein, the parties agree as follows.

**ARTICLE I - TERM, SCHEDULE AND TIME OF PERFORMANCE**

- A. **Term.** The term of this Agreement shall be from the Effective Date to the Completion Date.

1. **General Conditions.** This Agreement is subject to the General Conditions attached hereto as Exhibit 1. A particular General Condition is referenced herein by General Condition ("GC") number and associated title.
  2. **Effective Date.** The date upon which the last party to this Agreement has dated and executed the same.
  3. **Agreed Schedule.** The schedule for the services hereunder as agreed to by the parties, and providing for the Commencement Date, schedule and duration of specific project tasks, and Completion Date for Consultant's services and activities required for the Work ("Agreed Schedule"). The Agreed Schedule is contained within the Statement of Work attached hereto as Exhibit 2.
  4. **Completion Date.** The date all obligations hereunder are to be completed by the Consultant and accepted by TIFA. The Completion Date is specified in the Agreed Schedule.
  5. **Surviving Obligations.** For a period of 36 months after the Completion Date, the Consultant shall have a continuing obligation to provide access to each of the key Consultant personnel identified in Article VIII, Paragraph A for the limited purpose of providing clarification regarding the Work. The Consultant shall be compensated for any such continuing services for a fee agreed to by the parties pursuant to **GC 9 - CONTRACT AMENDMENTS; CHANGE ORDERS.**
- B. **Commencement Date.** Consultant shall begin the Work on the Commencement Date as defined in the General Conditions. Consultant shall prosecute the Work regularly, diligently, and uninterruptedly so as to complete the Work ready for use in accordance with the Statement of Work and the time(s) stated for completion in the Agreed Schedule.
- C. **Time is of the Essence.** Performance of the Work in compliance with the Commencement Date and Completion Date are essential conditions hereof. In addition, time is of the essence for each and every aspect of this Agreement. Where additional time is allowed for the completion of the Work, the new time limit shall also be of the essence.

## **ARTICLE II - STATEMENT OF WORK AND DELIVERABLES**

- A. **Statement of Work/Scope of Services.** The Consultant agrees to perform consulting engineering services, furnish and deliver all materials, and do and perform all work and labor required to be furnished and delivered, done and performed in conformity with the following documents (hereinafter "Contract Documents"):
1. This Agreement;
  2. The General Conditions, attached hereto as Exhibit 1 and incorporated herein by reference;

3. The Consultant's Statement of Work, attached hereto as Exhibit 2;
4. The Consultant's Release, Hold Harmless and Indemnity Agreements attached hereto as Exhibits 3A, 3B and 3C;
5. Any Special Conditions attached hereto;
6. Any other Addenda, Certifications, Affidavits, and Exhibits to this Agreement or any of the Contract Documents.

**B. Other Related Requirements.** The Consultant agrees to comply with the following related requirements:

1. The Consultant shall not duplicate any previous work done on any project without TIFA's consent. Before the Commencement Date the Consultant shall consult with the Project Administrator to clarify and define TIFA's requirements for the Work and review all available data.
2. The Consultant shall attend all conferences required by TIFA and its representatives.
3. In order to accomplish the Work under the time frames and conditions set forth in this Agreement, the Consultant shall observe the following requirements:
  - a. The Consultant shall complete the project within the time allowed by always maintaining an adequate staff.
  - b. The Consultant shall comply with all federal, state, and local laws applicable to the project. The Consultant's work product shall fully conform with all federal, state and local laws applicable to the project.
  - c. The Consultant shall cooperate fully with TIFA in order that all phases of the Work may be properly scheduled and coordinated.
  - d. The Consultant shall regularly report the status of the Work to the Project Administrator and hold all related Work open to the inspection of the Project Administrator or his authorized agent at any time.
4. The Consultant shall furnish all products and deliverables in accordance with the Statement of Work in the quantities and formats stated for completion therein in compliance with the Agreed Schedule. The costs to furnish such products and deliverables are included in the compensation amount provided for herein in Article III - Compensation. The Consultant shall furnish TIFA the necessary number of sets of the documents, reports, and other pertinent items. All original documents, survey notes, field books, tracings, and the like, including all items furnished to the Consultant by TIFA pursuant to this Agreement are, and shall remain the property of TIFA, and shall be delivered to TIFA upon completion of the Work. All items prepared by the Consultant shall be created, maintained, updated, and provided in the format as specified by TIFA, and shall be owned by TIFA.
5. Any additional work required by TIFA beyond the Statement of Work, shall be an additional service, and TIFA shall compensate the Consultant in accordance with **GC-9 - CONTRACT AMENDMENTS; CHANGE ORDERS**, and in accordance with the Fee Schedule in the Statement of Work. Written approval by TIFA shall be required prior to commencement of any additional work.

6. The Statement of Work does not include assistance in litigation undertaken or defended by TIFA. However, Consultant agrees to testify and assist TIFA in any litigation that is dependent upon or related to the services performed under this Agreement at the same hourly rate as provided for in the Statement of the Work.
- C. **Deliverables.** Consultant shall deliver all products and Deliverables in accordance with the Statement of Work in the quantities and formats stated for completion therein. Consultant is responsible for the professional quality, technical accuracy, and timely completion of the Work in compliance with the Agreed Schedule. Both workmanship and materials shall be of good quality and consistent with the professional skill and care ordinarily provided by professional engineers in Florida on projects similar to the Work. Consultant shall correct any and all errors, omissions or deletions in the Work performed without additional compensation from TIFA. Unless otherwise specifically provided for herein, Consultant shall provide and pay for all materials, labor, and other facilities and equipment as are necessary for the performance of the Work. TIFA's Project Administrator shall make a final acceptance inspection of the deliverables when they are completed and finished in all respects in accordance herewith. The parties may agree, at any time, in the form of a written amendment, to make changes within the general scope of this Agreement to the Work to be provided hereunder.
- D. **Progress Schedule.** Consultant shall provide an updated progress schedule with each payment request, taking into account all delays, Change Orders, etc. Failure to provide an updated progress schedule will be cause to withhold payment to Consultant until such time as the updated schedule is received.
- E. **Progress Reports.** Consultant shall provide progress reports as described in the Scope of Services.
- F. **Ownership.** TIFA shall own all reports, copyrights, and all accompanying data (in all formats) developed, secured, obtained or produced pursuant to the Work. Any source documents or any other documents or materials owned by third parties and used in the performance of this Agreement shall be considered property of the entity from which such documents or materials originated.
- G. **Consultant Computer Codes.** If any existing computer codes required for the development of a model selected by Consultant and necessary for use in completing the Work are deemed proprietary by Consultant, then Consultant grants to TIFA and its assignees, a non-exclusive license to use the proprietary computer model codes for the sole purpose of utilization and/or further development of the Work. Consultant agrees to indemnify and hold Indemnities (as hereinafter defined) harmless from all costs, damages, and expenses, including attorney's fees, arising from any claim, right, or suit over the proprietary interests in the computer codes developed for the Work. Consultant agrees to indemnify and hold Indemnities harmless from all costs, damages, and expenses, including attorneys' fees, incurred by Indemnities in the event of claims brought pursuant to Chapter 119, Fla. Statutes. Documentation of Consultant's proprietary rights shall be provided to TIFA upon request. When submitted to TIFA's Project Administrator, the Consultant's computer codes may become public records subject to the provisions of Chapter 119, Fla. Statutes.
- H. **Other Computer Codes.** Consultant shall not be entitled to claim any proprietary right to computer codes that are developed by Consultant in fulfilling the requirements of the

Work, which shall be considered “work for hire” under applicable copyright and/or patent law. Such computer codes, which constitute a Deliverable hereunder, are the sole and exclusive property of TIFA. TIFA may copyright or patent such computer codes in their own name to the full extent authorized by law.

### **ARTICLE III - COMPENSATION**

- A. **Professional Services Compensation.** For satisfactory performance of the Work, TIFA agrees to pay the Consultant for services rendered and accepted by TIFA pursuant to this Agreement and as detailed in the Statement of Work, for a total authorized amount of Fifty Thousand Dollars and Zero Cents (\$50,000.00).
- B. **Invoicing Procedure.** All invoices shall be submitted to TIFA’s Project Administrator at the following address: **City of Titusville, 2836 Garden Street, Titusville, FL 32796, Attn: Kevin Cook.** Consultant shall submit monthly invoices based upon the actual portion of the Work performed (percentage of Task Complete) and shall bill as per the Fee Schedule included in the Statement of Work. All payment requests shall contain the contract number, Consultant’s name and address, name of the Project Administrator, and name of the Consultant’s Project Manager.
- All invoices shall be approved by TIFA as a condition precedent to payment. Payment requests that do not correspond to the services identified in the Statement of Work or other requirements of this paragraph will be returned to the Consultant without action within twenty (20) business days of receipt and shall state the basis for rejection of the invoice. Payments shall be made within forty- five (45) days of receipt of an invoice that conforms to this Article.
- C. **Payments.** TIFA shall make partial payments to the Consultant on the basis of approved invoices for Work performed by the Consultant, subject to the withholding of any payments as provided in Paragraphs “D” and “E” below.
- D. **Payments Withheld.** TIFA may withhold or, on account of subsequently discovered evidence, nullify, in whole or in part, any payment to such an extent as may be necessary to protect TIFA from loss as a result of: (1) defective Work not remedied; (2) failure of Consultant to make payments when due to subcontractors, sub-consultants or suppliers for materials or labor; (3) TIFA’s determination that the Work cannot be completed for the remaining or unpaid funds; (4) failure to maintain adequate progress in the Work; or (5) any other material breach of this Agreement. Amounts withheld shall not be considered due and shall not be paid until the ground(s) for withholding payment have been remedied.
- E. **Liquidated Damages.** It is mutually agreed that time is of the essence in this Agreement and should the Consultant fail to complete the Work within the specified time as defined in the Agreed Schedule, or any authorized extension thereof, Consultant shall be subject to the liquidated damages provisions of section **GC-10, FORCE MAJEURE; DELAYS; EXTENSION OF COMPLETION DATE.**
- F. **Forfeiture of Final Payment.** Consultant shall submit the final invoice to TIFA not later than 90 days after the Completion Date. **CONSULTANT’S FAILURE TO SUBMIT THE FINAL INVOICE TO TIFA WITHIN THE TIME FRAME ESTABLISHED HEREIN**

SHALL BE A FORFEITURE OF ANY REMAINING AMOUNT DUE UNDER THE AGREEMENT.

- G. **Release.** Upon the satisfactory completion of the Work, TIFA shall provide a written statement to Consultant accepting all Deliverables. Acceptance of the final payment shall be considered as a release in full of all claims against TIFA arising from or by reason of the Work done and materials furnished hereunder, with the exception of any pending claims for additional compensation that have been documented and filed as required by this Agreement. Consultant agrees that final payment shall be conditioned on the receipt by TIFA of duly executed and acknowledged statements showing that Consultant and all sub-consultants, subcontractors and suppliers have been paid in full and each has duly executed lien waivers or waivers of right to claim against any payment bond that ensure the release of any and all claims or liens against TIFA and any owner of property upon which the Work has been located.

#### **ARTICLE IV - INDEMNITY AND INSURANCE**

- A. **Indemnity.** Consultant agrees to indemnify and hold harmless TIFA, City of Titusville, Farmton Water Resources LLC, Miami Alternatives, LLC and Farmton 5A, LLC and their owners, officers, directors, employees and agents (“Indemnitees”) from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys’ fees, to the extent caused by any act or omission of the Consultant or any sub-consultant, subcontractor, supplier or other person employed or utilized by Consultant in the performance of this contract, or because of or as a consequence of any negligence, recklessness, or intentionally wrongful conduct of Consultant, or any sub-consultant, subcontractor, supplier or other person employed or utilized by Consultant in the performance of this contract. TIFA and Consultant further agree that this provision satisfies the requirement of Florida Statute Section 725.08 so that the indemnification provisions are valid and binding upon the parties to this contract. Sub-consultant(s), subcontractors, suppliers and other persons employed or utilized by Consultant in the performance of this contract shall provide evidence of said hold harmless and indemnity prior to commencement of the Work.
- B. **Insurance.** Consultant and any sub-consultant or other person employed or utilized by Consultant in the performance of this contract shall acquire and maintain all insurance required by **GC-17, INSURANCE**. In the respective contracts, Consultant shall require and ensure that all sub-consultants or other persons acquire and maintain all insurance requirements set forth in section **GC-17, INSURANCE**.
- C. **Release Harmless and Indemnity Agreements.** Consultant and all sub-consultants or other person employed or utilized by Consultant in the performance of this Agreement accessing the project site shall provide TIFA with fully executed Release, Hold Harmless and Indemnity Agreements (attached hereto as Exhibits 3A, 3B and 3C) as a prerequisite to accessing the Area IV Wellfield project site.

#### **ARTICLE V - TERMINATION FOR CONVENIENCE**

TIFA may terminate this Agreement for convenience pursuant to section **GC-13, TIFA TERMINATION FOR CONVENIENCE**, for any reason.

## **ARTICLE VI - PROJECT MANAGEMENT**

- A. **Project Administrator and Project Manager.** The individuals listed below shall be the principal contact persons responsible for overall coordination, oversight, and management of the Work. The parties agree to the following persons being designated as TIFA's Project Administrator and the Consultant's Project Manager:

TIFA Project Administrator  
Kevin Cook  
City of Titusville  
2836 Garden Street  
Titusville, Florida 32796-3584  
Phone # (321) 383-5867  
Fax # (321) 383-5650  
E-mail: [kevin.cook@titusville.com](mailto:kevin.cook@titusville.com)

Consultant Project Manager  
Jennifer Lyons, P.E.  
AECOM Technical Services, Inc  
150 N. Orange Avenue  
Orlando, FL 32801  
Phone # (407) 764-8405  
Fax # (407) 839-1789  
E-mail: [jennifer.lyons@aecom.com](mailto:jennifer.lyons@aecom.com)

- B. **Change in Project Administrator.** TIFA may change its Project Administrator by providing not less than ten(10) working days prior written notice of the change to Consultant. Consultant's Project Manager is designated as Key Consultant personnel pursuant to Article VI. A, and the provisions thereof shall apply. TIFA reserves the right to request Consultant replace its Project Manager if said Manager is unable to carry the Work forward in a competent manner or fails to follow instructions or the Statement of Work, or for other reasonable cause.
- C. **Supervision.** Consultant shall provide efficient supervision of the Work, using the professional skill and care ordinarily provided by professional engineers in the Florida on projects similar to the Work. If TIFA informs the Consultant that any person on the job is working contrary to the Agreement or the instructions of TIFA, that person shall thereupon be immediately dismissed from the project and shall not be given employment on any work connected with this Agreement.
- D. **Notices.** All notices to each party shall be in writing and shall be either hand-delivered or sent via U.S. certified mail or e-mail to the respective party's Project Administrator and Project Manager at the names and addresses specified above. All notices shall be considered delivered upon receipt. Should either party change its address, written notice of the new address shall be sent to the other party within five (5) business days.

## **ARTICLE VII - CCNA PROVISIONS**

- A. **Contingency Fees.** Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of these provisions, TIFA may terminate this Agreement without liability and, at its discretion, deduct from the contract price or otherwise recover the full amount of any such fee, commission, percentage, gift, or other consideration.



- B. **Truth-in-Negotiations.** Consultant certifies that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current at the time of contracting. The original contract price and any additions shall be adjusted to exclude any significant sums by which TIFA determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs.

## **ARTICLE VIII - MISCELLANEOUS PROVISIONS**

- A. **Key Consultant Personnel.** Consultant acknowledges its understanding that the experience level of key Consultant personnel to be involved in performance of the Work was a material factor that was considered by TIFA in determining to enter into this Agreement with Consultant. The following persons are considered Key Consultant personnel:

Jennifer Lyons, P.E., CPH Engineers, Project Manager

Consultant shall not substitute key personnel without the prior written consent of TIFA. In the event key personnel leave the Consultant's employ during the term of this Agreement, TIFA shall have the right to approve substitute key personnel. In the event the parties cannot agree upon substitute personnel, TIFA may terminate this agreement for convenience, as provided in **GC-13, TIFA TERMINATION FOR CONVENIENCE**.

- B. **Assignment and Subcontracts.** Consultant shall not sublet, assign, or transfer any Work, in whole or in part, or assign any moneys due or to become due hereunder, without the prior written consent of TIFA. Consultant shall notify TIFA's Project Administrator in writing of the names of sub-consultants proposed for the Work. Neither TIFA approval of a sub-consultant nor any other provision of this Agreement shall create a contractual relationship between any sub-consultant and TIFA. Consultant shall be responsible for the fulfillment of all Work elements included in the subcontracts and shall be responsible for the payment of all monies due under any subcontract. Consultant agrees that final payment shall be conditioned on the receipt by TIFA of duly executed and acknowledged statements showing that all sub-consultants, subcontractors and suppliers have been paid in full and each has duly executed lien waivers or waivers of right to claim against any payment bond that ensure the release of any and all claims or liens against TIFA and any owner of property upon which the Work has been located. Consultant shall be as fully responsible to TIFA for the acts and omissions of its sub-consultants, and of persons either directly or indirectly employed by them, as it is for its own acts and omissions.
- C. **Interest of Consultant.** Consultant certifies that no officer, agent, member, or employee of TIFA, has any material interest, as defined in Chapter 112, Fla. Stat., either directly or indirectly, in the business of Consultant to be conducted hereby, and that no such person shall have any such interest at any time during the term of this Agreement.
- D. **Independent Contractor.** Consultant is an independent contractor. Neither Consultant nor Consultant's employees are employees of TIFA. Consultant shall have the right to control and direct the means and methods by which the Work is accomplished. Consultant may perform services for others, which solely utilize Consultant's facilities and do not violate any confidentiality requirements of this Agreement. Consultant is solely responsible for compliance with all labor and tax laws pertaining to Consultant, its officers, agents, and employees, and shall indemnify and hold the Indemnities harmless

from any failure to comply with such laws. Consultant's duties with respect to Consultant, its officers, agents, and employees, shall include, but not be limited to: (1) providing Workers' Compensation coverage for employees as required by law; (2) hiring of any employees, assistants, sub-consultants or subcontractors necessary for performance of the Work; (3) providing any and all employment benefits, including, but not limited to, annual leave, sick leave, paid holidays, health insurance, retirement benefits, and disability insurance; (4) payment of all federal, state and local taxes income or employment taxes, and, if Consultant is not a corporation, self-employment (Social Security) taxes; (5) compliance with the Fair Labor Standards Act, 29 U.S.C. §§ 201, et seq., including payment of overtime in accordance with the requirements of said Act; (6) providing employee training for all functions necessary for performance of the Work; (7) providing equipment and materials necessary to the performance of the Work; and (8) providing office or other facilities for the performance of the Work. In the event TIFA provides training, equipment, materials, or facilities or otherwise facilitate performance of the Work, this shall not affect any of Consultant's duties hereunder or alter Consultant's status as an independent contractor.

- E. **Conflicting Employment.** Consultant hereby represents that it has no undisclosed conflict of interest between the services to be provided under this Agreement and services being provided by Consultant to any other clients. Should Consultant or TIFA become aware of any such conflict of interest, that party will promptly notify the other party thereof. Consultant and TIFA shall negotiate in good faith to resolve the conflict. If Consultant and TIFA cannot resolve the conflict of interest, TIFA may terminate this Agreement upon five (5) days prior written notice if Consultant fails to resolve the conflict within such time period. In no case shall the Consultant's Project Manager, or other key personnel who have been so identified in the Article VIII.A, be directly involved in providing services to other clients associated with the conflict. Notwithstanding the foregoing, Consultant may accept retainers from or be employed by third parties whose interest appear conflicting or inconsistent with that of TIFA if, after full written disclosure of the facts to TIFA, TIFA determines that the apparent conflict shall not interfere with the performance of the Work by Consultant.
- F. **Civil Rights.** Pursuant to Chapter 760, Fla. Stat., Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, age, handicap, or marital status.
- G. **Audit: Access to Records.** Consultant agrees that TIFA or its duly authorized representatives shall, until the expiration of three (3) years after expenditure of funds hereunder, have access to examine any of Consultant's books, documents, papers, and other records involving transactions related to this Agreement. Consultant shall preserve all such records for a period of not less than three (3) years. Payment(s) made hereunder shall be reduced for amounts charged that are found on the basis of audit examination not to constitute allowable costs. Consultant shall refund any such reduction of payments. All required records shall be maintained until an audit has been completed and all questions arising from it are resolved. Consultant will provide proper facilities for access to and inspection of all required records.
- H. **Release of Information.** Records of Consultant and sub-consultants that are made or received in the course of performance of the Work may be public records that are subject to the requirements of Chapter 119, Fla. Stat. However, some records may be confidential or exempt from disclosure under Chapter 119, Fla. Stat. In the event Consultant receives

a request for any such records, Consultant shall notify TIFA's Project Administrator and comply with Chapter 119, Fla. Stat. Consultant shall not prepare any news or press release in any way related to this Agreement, without TIFA's written consent.

- I. **Royalties and Patents.** Unless expressly provided otherwise herein, Consultant shall pay all royalties and patent and license fees necessary for performance of the Work and shall defend all suits or claims for infringement of any patent rights and save and hold Indemnities harmless from loss on account thereof. If Consultant at any time has information that the process or article so specified is an infringement of a patent, it shall be responsible for such loss unless it promptly provides such information to TIFA. Consultant hereby certifies to TIFA that the Work to be performed pursuant to this Agreement does not and will not infringe on any patent rights.
- J. **Governing Law.** This Agreement shall be construed and interpreted according to the laws of the state of Florida.
- K. **Venue.** In the event of any legal proceedings arising from or related to this Agreement, venue for such proceedings shall be in Brevard County, Florida.
- L. **Attorney's Fees.** In the event of any legal or administrative proceedings arising from or related to this Agreement, including appeals, each party shall bear its own costs and attorney's fees.
- M. **Conflicting Provisions.** If any provision hereof is found to be in conflict with any other, then the specific terms shall prevail over the general.
- N. **Waiver of Right to Jury Trial.** In the event of any civil proceedings arising from or related to this Agreement, Consultant hereby consents to trial by the court and waives its right to seek a jury trial in such proceedings; provided, however, that the parties may mutually agree to a jury trial.
- O. **Construction of Agreement.** This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that both parties have contributed substantially and materially to the preparation hereof.
- P. **Entire Agreement.** This Agreement, upon execution by Consultant and TIFA, constitutes the entire agreement of the parties. The parties are not bound by any stipulations, representations, agreements, or promises, oral or otherwise, not printed or inserted herein. Consultant agrees that no representations have been made by TIFA to induce Consultant to enter into this Agreement other than as expressly stated herein. This Agreement cannot be changed orally or by any means other than written amendments referencing this Agreement and signed by all parties.
- Q. **Separate Counterparts.** This Agreement may be executed in separate counterparts, which shall not affect its validity.
- R. **Authority to Enter into Agreement.** Each party to this Agreement has the authority to enter into and form this Agreement. The individuals signing the Agreement have the authority to act as agents of their respective organizations. Each party acknowledges that they have read this Agreement and will abide by it.

**IN WITNESS WHEREOF**, TIFA has caused this Agreement to be executed on the day and year written below in its name by its Managing Members, and Consultant has caused this Agreement to be executed on the day and year written below in its name by its duly authorized representatives, and, if appropriate, has caused the seal of the corporation to be attached.

CONSULTANT:

TIFA LLC

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

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

Name: \_\_\_\_\_

Name: Jim Ball

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

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

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

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

Witness: \_\_\_\_\_

Name: Robbie E. Lee, Jr.

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

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

Date \_\_\_\_\_

Documents attached:

1. Attachment 1 – TIFA’s Supplemental Instructions;
2. The General Conditions, attached hereto as Exhibit 1 and incorporated herein by reference;
3. The Consultant’s Statement of Work, attached hereto as Exhibit 2;
4. The Consultant’s Release, Hold Harmless and Indemnity Agreements, attached hereto as Exhibits 3A, 3B and 3C.

**ATTACHMENT 1 — TIFA’S SUPPLEMENTAL INSTRUCTIONS (sample)**

Date: \_\_\_\_\_; Agreement Number: \_\_\_\_\_

Agreement name:

To: \_\_\_\_\_

From: \_\_\_\_\_; Project Administrator

The Work shall be carried out in accordance with the following Supplemental Instructions, issued in accordance with the Agreement. TIFA’s Project Administrator, by issuance of these instructions, has determined that they will not result in a change in the Total Compensation or the Completion Date. Prior to proceeding in accordance with these instructions, please indicate your acceptance hereof as provided below and return to TIFA’s Project Administrator.

1. Consultant’s supplemental instructions:

2. Description of Work to be changed:

3. Description of supplemental instruction requirements:

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ Project Administrator

**CONSULTANT approval: (choose one of the items below):**

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

(It is agreed that these instructions shall not result in a change in the Total Compensation or the Completion Date.)

Approved: \_\_\_\_\_ Date: \_\_\_\_\_  
\_\_\_\_\_ (Consultant agrees to  
implement the Supplemental Instructions  
as requested, but reserves the right to seek a Change Order in  
accordance with the requirements of the Agreement.)

## EXHIBIT 1

### GENERAL CONDITIONS

#### GC-1 DEFINITIONS

- A. **ADDENDA:** Written or graphic instruments issued prior to the opening of Solicitations, which make additions, deletions, or revisions to the contract documents.
- B. **AGREEMENT:** The written contract between TIFA and Consultant covering the Work to be performed, which includes all other documents that are attached to the Agreement or incorporated by reference and made a part thereof. It shall be understood that the words “contract” and “Agreement” are synonymous in these documents.
- C. **AMENDMENT:** Any written change made to the terms and conditions of the Agreement.
- D. **COMMENCEMENT DATE:** The date upon which the Work is authorized to proceed.
- E. **COMPLETION DATE:** The date upon which the Work is required to be completed.
- F. **CONSULTANT:** Consultant, its officers, agents, employees, and assigns.
- G. **CONSULTANT’S PROJECT MANAGER:** The individual designated by the Consultant to be responsible for overall coordination, oversight, and management of the Work for Consultant.
- H. **DAY:** Each day shown on the calendar.
- I. **DELIVERABLES:** All Work that is to be performed pursuant to the Statement of Work, in whole or in part, including, but not limited to, all equipment or materials that are incorporated within the Work.
- J. **CITY:** The City of Titusville, its officers, agents, and employees.
- K. **TIFA’S SUPPLEMENTAL INSTRUCTION:** Instructions issued by TIFA’s Project Administrator to make minor changes in the Work not affecting the Total Compensation or the Completion Date, and consistent with the purpose of the Work.
- L. **FORCE MAJEURE:** The failure to carry out any of the terms of this Agreement due to any one of the following circumstances beyond the control of Consultant: (a) the operation and effect of rules, regulations, or orders promulgated by any commission, county, municipality, or governmental agency of the state of Florida or the United States, (b) a restraining order, injunction, or similar decree of any court of competent jurisdiction, (c) war, (d) flood, (e) earthquake, (f) fire, (g) severe wind storm, (h) acts of public disturbance, (i) quarantine restrictions, (j) epidemics, (k) strikes, (l) freight embargoes, or (m) sabotage.
- M. **PERSON:** Any individual, partnership, society, association, joint stock company, corporation, estate, receiver, trustee, assignee, referee, or capacity, whether appointed by a court or others, and any combination of individuals.
- N. **STATEMENT OF WORK:** The part of this Agreement containing the written scope, budget, schedule, directions and requirements for completing the Work. Standards for specifying materials or testing that are incorporated therein by reference shall have the same force and effect as if fully set forth therein.

- O. **SUBCONTRACTORS:** Those persons having a direct contract with Consultant relating to performance of the Work.
- P. **TIFA:** TIFA LLC a limited liability company established in the State of Florida by its members the City of Titusville and Farnton Water Resources LLC.
- Q. **TIFA's PROJECT ADMINISTRATOR:** The City of Titusville Water Resources Director or authorized designee, as provided herein.
- R. **TOTAL COMPENSATION:** The total amount of funds to be expended pursuant to this Agreement upon satisfactory completion of the Work provided for hereunder.
- S. **WORK:** Includes labor, materials, equipment, transportation, supporting documentation, and all other products, services, or facilities necessary for complete performance of the Agreement.

## **GC-2 CORRELATION AND INTENT OF DOCUMENTS**

The body of this Agreement and all attachments and documents incorporated by reference are complementary. What is called for by one shall be as binding as if called for by all. The intent of the documents is to include all labor and materials, equipment, transportation, and incidentals necessary for the proper and complete execution of the Work. TIFA will furnish any additional instructions by means of drawings or otherwise as are necessary for the proper execution of the Work. Materials or work described in words, which so applied have a well-known technical or trade meaning, shall be held to refer to such recognized standards.

## **GC-3 ACCESS; WORK AREA; GATES**

**Access.** For any Work that is performed on TIFA property or property interests, TIFA will provide sufficient access to accomplish the Work. Land access to the Work area shall be restricted to the route designated by TIFA. All access routes shall be used for the purpose of the Work only. Consultant shall not disturb lands or waters, except as may be found necessary and authorized by TIFA.

**Gates.** Consultant shall keep all gates to lands or easements to which it is granted access closed and locked in accordance with property owner's specifications when not in use.

## **GC-4 PERMITS, REGULATIONS, AND LICENSES**

All materials used and work performed must conform to the laws of the United States, the State of Florida and county and municipal ordinances. Consultant represents and warrants that it is duly licensed to perform the Work in accordance with the laws of the State of Florida and the county or municipality in which the Work is to be performed. Consultant shall give to the proper authorities all required notices relative to the Work in its charge; obtain and pay for all official permits or any other licenses, including any and all professional licenses required by the nature of the Work; and furnish any bonds, security, or deposits required to permit performance of the Work.

Until the Work is accepted by TIFA as substantially complete, Consultant shall comply with all conditions of permits issued by governmental agencies, which are incorporated herein. Consultant is responsible for the resolution of any issues resulting from a finding of noncompliance by any regulatory agencies, including all costs for delays, litigation, fines, or other costs.

## **GC-5 PROJECT SCHEDULING AND WORK PLANNING**

**Pre-work Conference.** Within seven (7) business days after the execution of this Agreement, Consultant shall be responsible for scheduling a pre-work conference with TIFA's Project Administrator at a mutually convenient time. The purpose of this conference shall be to discuss scheduling of the Work and any matters related thereto. Consultant shall provide a work plan detailing how Consultant will execute the Work for TIFA's approval not less than five (5) days prior to the pre-work conference. Consultant will allow ten (10) days from the date of TIFA's receipt of the work plan for review and approval.

**Progress Meetings.** TIFA may elect to conduct progress meetings with Consultant on a frequency to be determined by TIFA. In such event, Consultant shall make available its Project Manager and/or superintendent and other appropriate personnel to discuss matters pertinent to performance of the Work in progress.

**Failure to Meet Schedule.** If the progress of the Work falls five percent (5%) or more behind schedule, except as a result of delays approved by TIFA, Consultant shall take all necessary steps to augment the work effort to get the project back on schedule. Should the progress of the Work fall ten percent (10%) or more behind schedule, TIFA will formally advise Consultant through a "cure" notice that TIFA considers Consultant's failure a condition that is endangering performance of this Agreement, and that unless said failure is cured within the time frames specified in said notice, TIFA may terminate this Agreement for default pursuant to **GC-12 — TIFA TERMINATION FOR CAUSE.**

## **GC-6 CONSULTANT'S QUESTIONS OR ISSUES REGARDING PERFORMANCE OF THE WORK**

It is TIFA's intention to fully assist Consultant in the successful performance of the Work and to respond in a timely manner to any questions or issues that arise. Consultant should initially discuss any questions or issues with TIFA's Project Administrator and communicate such questions or issues to TIFA's Project Administrator in writing when required by the terms of this Agreement or as otherwise determined by Consultant to be in its best interest. Within a reasonable time after their presentation, TIFA shall respond to any such questions or issues through its Project Administrator.

## **GC-7 PROTECTION OF THE WORK, TIFA EQUIPMENT, AND PROPERTY**

Consultant shall be responsible for the proper care and protection of all material delivered and work performed until completion and final acceptance by TIFA, whether or not the same has been covered by partial payments made by TIFA. Consultant shall continuously maintain adequate protection of the Work from damage and shall protect public and privately owned property, structures, utilities, and work of any kind against damage or interruptions of service that may result from its activities. Consultant shall be solely responsible for all TIFA-owned equipment in its possession. Consultant shall repair, replace, or restore any damage, injury, or loss to any of the above public or private property at its expense and to TIFA's satisfaction. Should Consultant fail to perform its obligations hereunder, TIFA may make good any damage to public or private property caused by Consultant. The cost thereof shall be deducted from Consultant's final payment application.

## **GC-8 MODIFICATION OF SPECIFICATIONS NOT AFFECTING TOTAL COMPENSATION OR COMPLETION DATE**

No verbal agreement or conversation with any officer, agent, or employee of TIFA after execution of this Agreement shall affect or modify any of its terms. No one is authorized to change any provision of the Statement of Work without written authorization of TIFA. Nor shall the presence or absence of a TIFA inspector relieve Consultant from any requirements of this Agreement.

TIFA's Project Administrator shall have authority to authorize minor changes in the Work, not affecting the Total Compensation or the Completion Date, and not inconsistent with the purpose of the Work. Consultant



shall not make changes authorized by TIFA's Project Administrator without issuance of TIFA's Supplemental Instructions (SI) form (see Attachment 1) and approved by Consultant. All supplemental instructions shall be incorporated into the Agreement

The supplemental instructions, if approved solely upon the authority of TIFA's Project Administrator, shall indicate that: (1) both parties agree that the changes in the Work will not affect the Total Compensation or the Completion Date, or (2) that Consultant believes that the proposed supplemental instructions will involve extra cost or extend the Completion Date. **FAILURE OF CONSULTANT TO GIVE TIFA WRITTEN NOTICE AS PROVIDED HEREIN CONSTITUTES A WAIVER OF ANY CLAIMS FOR EXTRA COST.** If TIFA continues to direct that the supplemental instructions be implemented, Consultant shall implement said instructions upon receipt of an approved Change Order in accordance with **GC-9 – CONTRACT AMENDMENTS; CHANGE ORDERS.**

#### **GC-9 CONTRACT AMENDMENTS; CHANGE ORDERS**

TIFA may make changes to this Agreement by altering, adding to, or deducting from the Work without liability to Consultant, except for the reasonable cost of any additional Work. TIFA shall execute a written Change Order specifying the change in the Work. All such Work within the capacity of Consultant to perform shall be performed pursuant to the terms hereof. Any associated claim for extension of time will be adjusted at the time of ordering the change in the Work.

The parties shall negotiate the value of the change in the Work on an equitable basis. The value of any change in the Work may be determined in one or more of the following ways:

- (a) By estimate and acceptance in a lump sum,
- (b) By unit prices for Consultant employees, as provided in the contract or subsequently agreed upon, with a not-to-exceed amount agreed upon by the parties

If the parties cannot agree upon the cost of the Change Order, Consultant shall proceed with the Work only as directed in writing by TIFA and shall maintain and present, in such form as the Project Administrator may direct, the correct amount of the Consultant employees labor hours together with vouchers for other direct costs for printing and reproduction. The Project Administrator will certify the amount due Consultant. Pending a final determination of value, payments on account of the Change Order will be made based upon TIFA Project Administrator's estimate. Final resolution of the amount due to Consultant shall be pursuant to **GC-22 — DISPUTE RESOLUTION.**

TIFA may determine that TIFA instructions to correct deficient Work, to stop the Work due to deficiencies in the Work, or any other matters related to performance of the Work, which impose additional costs upon Consultant, do not warrant an increase in the Total Compensation or an extension of the Completion Date. If Consultant disputes this determination, final resolution thereof shall be pursuant to the provisions of **GC-22 — DISPUTE RESOLUTION.**

#### **GC-10 FORCE MAJEURE; DELAYS; EXTENSION OF COMPLETION DATE**

**Force Majeure.** Consultant shall not be subject to any liability for failure to carry out any of the terms of this Agreement to the extent that such failure shall be due to a Force Majeure event, as defined herein. Consultant shall not be relieved from liability for failures that are due to a Force Majeure event that could have been reasonably foreseen and guarded against so as to avoid or reduce the adverse impact of such event.

**Consultant-Induced Delay.** Consultant shall not be compensated for delays in the Work caused by Consultant's inefficiency, rework made necessary by Consultant's error, failure to perform the Work as

scheduled, or any other corrective or productivity measures made necessary by errors, omissions, or failures to properly perform the Work.

**Adverse Weather Conditions.** The times specified herein for performances include delays that can ordinarily be anticipated due to adverse weather conditions. TIFA is not obligated to grant an extension of time due to adverse weather conditions unless such conditions rise to the level of Force Majeure and the work is within the critical path.

**Notice of Delay.** Within ten (10) days after the onset of a delay, Consultant shall provide TIFA written notice of the delay, which shall include the following: (1) a detailed description of the delay and its probable duration, (2) the specified portion of the Work affected, and (3) an opinion as to the cause of the delay and liability (if any) for the delay. Notices provided more than ten (10) days after the inception of the delay shall only be effective as to additional costs or delay in performance incurred during the ten (10) day period preceding receipt of such notice by TIFA. In the case of continuing cause or delay, only one claim for extension of time is necessary. FAILURE TO PROVIDE THIS NOTICE SHALL BE A WAIVER OF ANY CLAIM OF CONSULTANT FOR EXTENSIONS OF TIME OR ADDITIONAL COMPENSATION AS A RESULT OF SUCH DELAY, AS PROVIDED HEREIN.

**Extension of the Completion Date.** If Consultant should be delayed at any time in the progress of the Work due to the negligence of TIFA, the failure of a consultant employed by TIFA to complete its work in a timely manner, changes ordered in the Work, a Force Majeure event, or any other cause which TIFA, in its sole judgment and discretion, determines to justify the delay, then the Completion Date may be extended for such time as is necessary to compensate for the delay. All time extensions shall be in the form of a written amendment and signed by both parties.

**Liquidated Damages.** TIFA and Consultant recognize that time is of the essence in this Contract, and as delay in prosecution of the Work may result in public inconvenience, or business interference, it is understood that the Consultant must vigorously press towards completion of the Work within the time frame established by this Contract. Moreover, the cost to TIFA for the administration, engineering, construction, inspection, and supervision will be increased as the project duration is lengthened.

Should the Consultant or, in case of default, the surety, fail to complete the Work or any portion or phase thereof within the contractually stipulated time, or within such extra time as may be allowed as herein above provided, it is agreed that for each calendar day that any portion of the Work shall remain incomplete, after the time specified in the Contract, with any extension of time which may be allowed by TIFA for the completion of the Work provided for in the Contract Documents, the sum per day to be deducted from monies due the Consultant, not as a penalty, but as liquidated damages for added expense, shall be calculated by one of the following methods:

A) The daily liquidated damages for public projects that will not produce direct revenue shall be calculated by multiplying one mill (.001) times the total cost of the contract or the cost of any applicable portion or phase of the contract. The resulting amount shall be rounded off to the nearest dollar and this amount will be deducted daily from the amount due the Consultant. Liquidated Damages shall be limited to a maximum value not to exceed the work order value.

Example: Portion Contract Amount x 1 Mill = Daily Liquidated Damages

\$50,000.00 x .001 = \$50.00 per day

B) A public project which when complete will generate quantifiable amounts of revenue, shall also have the liquidated damages calculated as above. In addition, the daily loss of revenue shall also be factored into

the formula as an additive to assure that all losses incurred by TIFA shall be properly addressed.

Example: ( Portion Contract Amount x 1 Mill) + Calculated Revenue Loss\*=Daily Liquidated Damages

$(\$50,000.00 \times .001) + \$1,200.00 = \$1,250.00$  per day or  
 $\$50.00 + \$1,200.00 = \$1,250.00$  per day

TIFA will base its calculation on direct losses of revenue projected upon completion of the required Work.

The Consultant shall take into account all contingent work which has to be done by other parties, arising from any cause whatsoever, and shall not plead his want of knowledge of said contingent work as an excuse for delay in his work, or for the non-performance.

Permitting the Consultant to continue and finish the Work or any part of it after the expiration of the number of calendar days allowed for completion or after any extension of time, shall in no way operate as a waiver on the part of the Owner of its rights under this Agreement. In case of default of the Agreement and the completion of the Work by the Owner as hereinafter provided, the Consultant and his Surety shall be liable for the liquidated damages under the Contract; but no liquidated damages shall be assessed for any delay in the final completion of the Work by the Owner due to any unreasonable action, negligence, omission, or delay of the Owner.

If any suit for the collection of, or involving the assessment of liquidated damages, the reasonableness of the amounts stipulated in the foregoing calculations shall be presumed. The liquidated damages referred to herein are intended to be and are accumulative, and shall be in addition to every other remedy now or hereafter enforceable by law, in equity, by statute, or under the Contract.

#### **GC-11 TIFA REMEDIES FOR NON-PERFORMANCE**

**TIFA Remedies.** The remedies enumerated herein are non-exclusive. In addition to the remedies set forth below, TIFA may avail itself of any statutory and/or common law remedies not specifically set forth herein. In the event of a breach of this Agreement, TIFA may terminate this Agreement for cause in accordance with **GC-12 — TIFA TERMINATION FOR CAUSE**. Alternatively, TIFA may elect to allow Consultant to correct the deficiency in performance or may take such action as is necessary to correct such deficiency through TIFA action or that of a third party.

**Consultant Correction of Deficiencies.** TIFA shall provide Consultant with written notice of a failure of performance hereunder. Such notice shall state the nature of the deficiency and, at TIFA's sole judgment and discretion, may afford Consultant an opportunity to correct said deficiency, in which event the notice shall specify the time allowed to cure said deficiency. If TIFA determines to allow Consultant an opportunity to correct the deficiency, Consultant shall promptly correct all Work rejected by TIFA. If Consultant disputes the fact that a failure of performance has occurred, Consultant shall, nevertheless, perform the corrective action and may submit a request for a Change Order in accordance with **GC-9- CONTRACT AMENDMENTS; CHANGE ORDERS** for any increase in the Total Compensation it believes it is entitled to receive. Unless expressly so provided by TIFA, the Completion Date shall not be extended as a result of action necessary to correct deficiencies in performance. Failure of Consultant to initiate or complete corrective action within the prescribed time period may result in TIFA pursuing alternative remedies, as provided for herein.

**Alternative Remedies to Correct Deficiency.** If TIFA determines that it is not in its best interest for Consultant to correct incomplete or incorrect Work caused by Consultant's failure of performance, TIFA may pursue any of the following remedies, or combination thereof, in whole or in part:

1. Accept the Work as is and deduct the reasonable value of the deficient Work from the Total Compensation;
2. Complete the Work through the utilization of TIFA employees and deduct the cost thereof from the Total Compensation;
3. Contract with a third party to complete the deficient Work and deduct the cost thereof from the Total Compensation.

**TIFA Technical Assistance.** TIFA may elect to provide technical assistance to Consultant in order to complete satisfactory performance of the Work. If TIFA is performing the function that Consultant is required to perform pursuant to this Agreement, TIFA may deduct the cost of providing such technical assistance from the Total Compensation. Prior to providing any such extraordinary technical assistance, TIFA shall notify Consultant that it considers such assistance to be above and beyond its duties hereunder and of its intention to deduct the cost of providing such assistance from the Total Compensation. Consultant shall not be entitled to reject technical assistance when TIFA determines that such assistance is necessary for the successful completion of the Work.

#### **GC-12 TIFA TERMINATION FOR CAUSE**

The Agreement may be terminated by TIFA for cause in the event of any breach hereof, including, but not limited to, Consultant's:

- (a) Failing to carry forward and complete the Work in accordance with the requirements hereof;
- (b) Failing to comply with applicable laws, regulations, permits, or ordinances;
- (c) Failing to timely commence or continuously and vigorously pursue correction of defective Work;
- (d) Making a general assignment for the benefit of its creditors;
- (e) Having a receiver appointed because of insolvency;
- (f) Filing bankruptcy or having a petition for involuntary bankruptcy filed against it;
- (g) Failing to make prompt payments, when properly due, to subcontractors, vendors, or others for materials or labor used in the Work; or
- (h) Making a material misrepresentation to TIFA regarding the Work or performance thereof.

TIFA shall provide Consultant with written notice of its intention to terminate this Agreement for cause, which shall provide the effective date of termination. Such notice shall state the nature of the deficiency and, at TIFA's sole judgment and discretion, may afford Consultant an opportunity to correct said deficiency, in which event the notice shall specify the time allowed to cure said deficiency. If the deficiency has not been corrected within the time allotted, TIFA may take possession of the Work and finish the Work by whatever method(s) TIFA deems expedient. In such case, Consultant shall not be entitled to receive any further payment until the Work is completed and accepted by TIFA. If the unpaid balance of the Total Compensation exceeds the expense of completing the Work, including compensation for additional managerial and administrative services, the excess will be paid to Consultant. If the expense exceeds the unpaid balance, Consultant shall pay the difference to TIFA. The expense incurred by TIFA and the damage incurred through Consultant's default will be certified by TIFA.

#### **GC-13 TIFA TERMINATION FOR CONVENIENCE**

Notwithstanding any other provision of this Agreement, TIFA may terminate this Agreement or any Work issued under it, in whole or in part, at any time, with or without cause, upon thirty (30) days written notice to

Consultant. Upon receiving notice of termination, Consultant shall discontinue the Work on the date and to the extent specified in the notice and shall place no further orders for materials, equipment, services, or facilities, except as needed to continue any portion of the Work that was not terminated. Consultant shall also make every reasonable effort to cancel, upon terms satisfactory to TIFA, all orders or subcontracts related to the terminated Work.

In the event of such termination, Consultant shall be compensated for any Work performed under this Agreement prior to the date of termination and for materials that were ordered prior to receipt of notice of termination that cannot be returned to the vendor. Any such materials shall become the property of TIFA. Consultant waives all claims for compensation in excess of that which is specifically provided for herein, including, but not limited to, loss of anticipated profits; idle equipment, labor, and facilities; and claims of subcontractors and vendors.

#### **GC-14 TIFA'S RIGHT TO STOP WORK**

**Suspension for Convenience.** TIFA may direct the Consultant to stop the Work, in whole or in part, whenever, in TIFA's sole judgment and discretion, such stoppage is necessary to ensure the proper completion of the Work, avoid injury to third persons, or otherwise meet the objectives of TIFA. TIFA shall provide Consultant not less than five (5) days written notice, except in emergency circumstances.

Should TIFA issue a Stop Work Notice for convenience, Consultant shall immediately comply with the instructions of the Stop Work Notice. Should such stoppage cause an increase or decrease in Consultant's cost, an equitable adjustment will be made in accordance with **GC-9 — CONTRACT AMENDMENTS; CHANGE ORDERS**. Stop Work Notice(s) shall continue in full force and effect until rescinded in writing by TIFA, unless the period of suspension is stated in the written notice.

**Suspension for Cause.** TIFA may issue a written partial or full Stop Work Notice in the event Consultant fails to comply with, or is negligent in the performance of, any provision of this Agreement. In such event TIFA shall not be liable for any costs incurred by Consultant. The partial Stop Work Notice will include instructions as to the specific Work to be stopped. If a full Stop Work Notice is issued, all performance hereunder shall immediately cease and no further billable costs shall be incurred. TIFA may elect to have Consultant cease work until corrections are made at no additional cost to TIFA and with no allowance for extension of time, or it may elect to terminate this Agreement if Consultant fails or refuses to comply with the terms of a Stop Work Notice.

#### **GC-15 CONSULTANT'S RIGHT TO STOP WORK, CHARGE INTEREST, AND/OR TERMINATE AGREEMENT**

**Stop Work.** Consultant shall not be entitled to stop work or terminate this Agreement except as expressly provided for herein. Consultant may stop work under the following circumstances:

1. The Work is ordered to be temporarily discontinued by a court or other public authority; or
2. It is necessary to stop work in order to protect the safety of Consultant, its officers, employees, or third persons who may be endangered by the Work.
3. TIFA is in material breach of the agreement, and has not cured the breach within 45 days of receipt of written notice of breach of contract.

In such event, Consultant shall provide TIFA not less than seven (7) days prior written notice of its intention to stop work, except in emergency circumstances when necessary to prevent injury to persons or property.

**Termination.** Consultant may terminate this Agreement under the following circumstances:

1. The Work is ordered to be discontinued by a court or other public authority, through no act or fault of Consultant, its officers, employees, or subcontractors, for a period of not less than three (3) months;
2. TIFA is in material breach of the Agreement, and has not cured the breach within 45 days of receipt of written notice of breach of contract.

In such event, Consultant shall provide TIFA no less than thirty (30) days prior written notice of its intention to terminate this Agreement.

**Duty to Perform.** In the event of any other dispute or other matter arising from the performance of this Agreement, Consultant shall fully perform the Work in accordance with TIFA's written instructions and may claim additional compensation only pursuant to **GC- 9 — CONTRACT AMENDMENTS – CHANGE ORDERS.**

#### **GC-16 USE OF COMPLETED PORTIONS OF THE WORK**

TIFA shall have the right to take possession of and use any completed or partially completed portions of the Work, notwithstanding the fact that the time for completing the entire Work or such portions may not have expired. Such taking of possession and use will not be deemed an acceptance of any Work not completed in accordance with this Agreement. If such possession and use increases the cost of or delays the Work, Consultant shall be entitled to extra compensation, or extension of time, as necessary, to offset the effect of such prior possession and use. Any such claims shall be handled as Change Orders pursuant to **GC- 9 — CONTRACT AMENDMENTS – CHANGE ORDERS.**

#### **GC-17 INSURANCE**

##### **I. WORKERS COMPENSATION:**

		<u>Statutory Limits</u>
Employers Liability:	Bodily Injury by Accident	\$1,000,000 each accident
	Bodily Injury by Disease	\$1,000,000 policy limit
	Bodily Injury by Disease	\$1,000,000 each employee

Consultant must provide a Waiver of Subrogation endorsement in favor of the following entities:

- TIFA LLC
- City of Titusville
- Farmton Water Resources LLC
- Miami Alternatives, LLC
- Farmton 5A, LLC

Any Consultant that contends that it is legally exempt from workers compensation coverage within the State of Florida may request approval to be exempt from the above workers compensation insurance requirements. In order to make such a request, the Consultant must submit for review a valid "Certificate

of Election to be Exempt” as issued by the Florida Division of Worker’s Compensation. Upon approval of the submitted certificate (if granted), the Consultant will be exempt from the above workers compensation coverage requirements, provided that the Consultant maintains its legal exemption status throughout the life of this Agreement. Such proof of continued exemption status must be provided via submittal of a renewed “Certificate of Election to be Exempt” if the originally submitted certificate expires during the life of this Agreement.

**II. COMMERCIAL GENERAL LIABILITY: (Occurrence Form)**

General Aggregate (Per Job Site)	\$2,000,000
Products/Completed Operations, Aggregate	\$2,000,000
Personal & Advertising Injury	\$1,000,000
Each Occurrence	\$1,000,000
Damage to Rented Premises	\$ 100,000

Per Project Aggregate Limit shall be applicable to the General Liability Coverage.

**III. COMMERCIAL AUTOMOBILE LIABILITY:**

Combined Single Limit (Each Accident)	\$1,000,000
All owned, non-owned & hired vehicles shall be insured.	

**IV. UMBRELLA LIABILITY:**

Each Occurrence	\$2,000,000
Aggregate – per job site	\$2,000,000
Self Insured Retention – not in excess of	\$ 10,000

- V. **PROFESSIONAL LIABILITY** – The Consultant shall maintain a professional liability insurance policy in the amount of \$2,000,000 during the term of this Agreement. Such coverage shall be maintained for a period of three (3) years following completion and acceptance of any work performed under this Agreement. In the event the Consultant fails to secure and maintain such coverage, Consultant shall be deemed the insurer of such professional liability insurance and shall be responsible for all damages suffered by TIFA LLC, City of Titusville, Farmton Water Resources LLC, Miami Alternatives, LLC and Farmton 5A, LLC as a result thereof, including attorney’s fees and costs.

- VI. The Consultant shall name the following entities on its Commercial General Liability, Commercial Automobile Liability and Umbrella Liability Policies as Additional Insureds:

- TIFA LLC

- City of Titusville
- Farmton Water Resources LLC
- Miami Alternatives, LLC
- Farmton 5A, LLC
- Directors, officers, managers, agents, owners and employees of the above entities

Such policies shall be endorsed to provide primary & non-contributory coverage to the Additional Insureds in relation to any and all other liability insurance policies carried by or for the benefit of the Additional Insureds.

- VII. Neither TIFA LLC, City of Titusville, Farmton Water Resources LLC, Miami Alternatives, LLC or Farmton 5A, LLC shall be responsible for, nor shall they insure, the personal property of the Consultant and/or its subcontractors/sub-consultants including, but not limited to, tools and equipment located at the job site which are not intended to be incorporated into the Work.
- VIII. Consultant shall purchase and maintain such insurance with insurance companies acceptable to TIFA LLC. The companies must maintain a minimum A.M. Best insurance rating of A-IX.
- IX. Prior to starting Work or occupying the property, a Certificate of Insurance must be transmitted to TIFA LLC by Consultant with the original forwarded to TIFA LLC. The certificate holder shall read:

TIFA LLC  
Attn: Kevin Cook  
2836 Garden Street  
Titusville, FL 32796

- X. Prior to starting Work or occupying the property, a Certificate of Insurance must be transmitted to the City of Titusville by Consultant with the original forwarded to the City of Titusville. The certificate holder shall read:

City of Titusville  
Attn: Thomas A. Abbate  
555 S. Washington Avenue  
Titusville, IL 32796

- XI. Prior to starting Work or occupying the property, a Certificate of Insurance must be transmitted to Farmton Water Resources LLC by Consultant with the original forwarded to Farmton Water Resources LLC. The certificate holder shall read:

Farmton Water Resources LLC  
Attn: Helen Hutchens  
410 North Michigan Avenue  
Suite 590  
Chicago, IL 60611

- XII. Prior to starting Work or occupying the property, a Certificate of Insurance must be transmitted



to Miami Alternatives, LLC by Consultant with the original forwarded to Miami Alternatives, LLC. The certificate holder shall read:

Miami Alternatives, LLC  
Attn: Helen Hutchens  
410 North Michigan Avenue  
Suite 590  
Chicago, IL 60611

- XIII. Prior to starting Work or occupying the property, a Certificate of Insurance must be transmitted to Farmton 5A, LLC by Consultant with the original forwarded to Farmton 5A, LLC. The certificate holder shall read:

Farmton 5A, LLC  
Attn: Helen Hutchens  
410 North Michigan Avenue  
Suite 590  
Chicago, IL 60611

- XIV. Consultant shall maintain such required insurance as identified herein, and no modification or change of insurance coverage and provision shall be made without thirty (30) days written advance notice to the certificate holders listed in Paragraphs IX through XIII above.
- XV. Consultant agrees to the extent it engages any sub-consultant to perform work at the project, it shall require all sub-consultants to maintain the same insurance as outlined in I through VIII above and provide certificates of insurance from each sub-consultant as provided in Paragraphs IX through XIII above.

## **GC-18 DIVERSITY**

TIFA is committed to the opportunity for diversity in the performance of all procurements, and encourages its prime vendors (contractors and suppliers) to make good faith efforts to ensure that women and minority-owned business enterprises (W/MBE) are given the opportunity for maximum participation, as the second- and lower-tier participants. TIFA will assist its vendors (contractors and suppliers) by sharing information on W/MBEs to encourage their participation.

## **GC-19 SAFETY**

Consultant shall at all times enforce strict discipline and good order among its employees and shall not employ any unfit person or anyone not skilled in the work assigned. Neither Consultant nor its subcontractors and servants shall allow or cause to be allowed any hunting, or any weapons, animals, alcohol, or drugs, on or from TIFA property or easements, or that of any other person or entity giving permission to Consultant to utilize same for the purposes of this Agreement, including, but not limited to, construction sites or adjacent property.

Consultant shall not permit its employees to park their vehicles or store equipment or materials adjacent to the traveled way or right-of-way where it may be a hazard to traffic. A clear distance of at least thirty (30) feet from the edge of the pavement or right-of-way shall be kept free of any obstacles unless otherwise authorized by TIFA.

In performing the Work, Consultant shall provide and maintain sufficient protection for the lives and health and safety of its employees and other persons who may utilize any TIFA or other premises upon which the Work is to be performed, and to prevent damage to property, materials, and equipment. To this end, Consultant shall comply with all applicable state, federal, and local governmental safety laws, rules, regulations, and ordinances. Consultant shall make certain that only authorized personnel are allowed on the worksite, if applicable, and shall post notices warning both employees and members of the public of all safety hazards created by Consultant. Warning signs shall be furnished, erected, maintained, moved, and removed as required by all applicable laws, rules, regulations, and ordinances or by this Agreement, to adequately and safely inform and direct the traveling public. Signs and markers shall indicate actual conditions.

## **GC-20 PROTECTION OF LAND AND WATER RESOURCES**

Consultant shall not discharge or permit the discharge, directly or indirectly, of any fuels, oils, bitumens, calcium chloride, acids, insecticides, herbicides, wastes, toxic or hazardous substances, or other pollutants or harmful materials, onto any lands or into any surface or ground waters, including, but not limited to, streams, lakes, rivers, canals, ditches, or reservoirs. Consultant shall investigate and comply with all applicable federal, state, county, and municipal laws concerning toxic wastes, hazardous substances, and pollution of surface and ground waters. If any waste, toxic or hazardous substance, or other material that can cause pollution, as defined in Section 403.031, Fla. Stat., is dumped or spilled in unauthorized areas, Consultant shall notify TIFA thereof within one (1) workday and thereafter shall remove the material and restore the area to its original condition. If necessary, contaminated ground shall be excavated and disposed of as directed by TIFA and replaced with suitable fill material, compacted and finished with topsoil, and planted as required to re-establish vegetation. All cleanup and disposal costs shall be borne by Consultant. If any waste, toxic or hazardous substance, or other material that can cause pollution, as defined in Section 403.031, Florida Statutes, is dumped or spilled or otherwise discharged on, over or under the property of TIFA, Consultant shall notify the affected entity within one (1) workday.

## **GC-21 AVOIDANCE OF PUBLIC OR PRIVATE NUISANCE**

Consultant shall exercise every reasonable precaution and means to avoid the creation or continuance of any public or private nuisances resulting from the progress of the Work.

## **GC-22 DISPUTE RESOLUTION**

Consultant has the duty to seek clarification and resolution of any issue, discrepancy, misunderstanding, or dispute arising from questions concerning interpretation or acceptable fulfillment of this Agreement by the parties. Unless otherwise specified, any formal request by Consultant for additional compensation, schedule adjustment, or other dispute resolution shall be submitted by Consultant to TIFA's Project Administrator no later than ten (10) days after the occurrence of the event causing the dispute. TIFA's Project Administrator shall forward the formal request to the TIFA Attorney for consideration. Consultant may request non-binding mediation in the formal request. The TIFA Attorney shall, at his/her sole discretion, determine whether the formal request will be addressed through mediation. If the TIFA's Attorney chooses to submit to non-binding mediation, the parties shall share equally in all associated costs. **FAILURE TO PROVIDE SUCH FORMAL REQUEST SHALL CONSTITUTE A WAIVER OF ANY CLAIM ARISING OUT OF EVENTS OCCURRING MORE THAN TEN (10) DAYS PRIOR TO THE DATE THE FORMAL REQUEST IS PROVIDED TO TIFA, UNLESS EXTENDED BY TIFA.**

No later than twenty (20) days after the receipt of such request, the TIFA Attorney will inform Consultant of its decision to submit to non-binding mediation, or it will issue a written decision upon the request; provided,

however, that TIFA may extend this period for an additional twenty (20) days in complex matters requiring detailed investigation. If the TIFA Attorney chooses to consider the matter in-house, a determination will be provided to Consultant's authorized representative. At all times, Consultant shall proceed with the Work in accordance with said determination, instruction, or clarification. The determination of the TIFA Attorney shall be deemed final and accepted by Consultant unless Consultant, within ten (10) days after receipt thereof, files with the TIFA Attorney, copying TIFA's Project Administrator, a written statement that clearly describes the basis for Consultant's disagreement with said determination. **FAILURE TO SUBMIT A WRITTEN STATEMENT AS PROVIDED FOR HEREIN SHALL CONSTITUTE A WAIVER OF ANY RIGHT TO FURTHER DISPUTE TIFA'S DETERMINATION, INSTRUCTION, OR CLARIFICATION.**

No later than ten (10) days after receipt of such written statement, TIFA shall issue its decision as to whether the prior determination of the TIFA Attorney. TIFA's decision shall constitute final action of TIFA and shall thereafter be subject to judicial review.

**EXHIBIT 2**  
**TIFA LLC**  
**AREA IV WELLFIELD**  
**OPERATIONAL RESILIENCY STUDY**  
**STATEMENT OF WORK**

**Scope of Services**

The following described Scope of Services shall be provided by AECOM Technical Services, Inc. (“AECOM”) to TIFA LLC (“TIFA”):

**Task 1 - Kick Off Meeting**

Schedule a Kick-Off Meeting with the operators of the wellfield to understand the history of operation and reasons for power failures in the past. Discuss operational plans for extreme weather events and steps TIFA has already taken to limit power failures in the wellfield. Understand the existing access issues experienced during flooding events.

**Task 2 – Data Collection**

Collect all pertinent operational data from TIFA and Florida Power and Light (“FPL”). Conduct an onsite inspection of the FPL above ground power transmissions system, wellfield power connections and cabinets, auxiliary power connections, and existing mobile stand by generators. The intent of Task 2 is to provide TIFA with the following information:

- a. Optional recommendations for resiliency improvements and maintenance agreements with FPL which are intended to reduce the probability of power outages and effect the timely restoration of power service. Resiliency improvements and maintenance agreement options may include, but are not limited to, strengthening above ground power lines, priority tree trimming and vegetation removal, priority power pole and power line inspections, priority replacement of deficient power system components identified during such inspections, and conversion to underground power.
- b. Budgetary cost estimates for each identified option, to the extent possible, based on information provided by FPL and AECOM’s judgement. The budgetary cost estimates shall include information regarding options for renumeration FPL for the installed resiliency improvements and priority maintenance services.

**Task 3 – Commercial Power Resiliency**

Meet with FPL to review their data related to the power outages at the wellfield and general service area. Analyze power outage data from FPL, looking for root causes and patterns. Determine FPL planned upgrades or owner funded options to improve resiliency and reliability.

**Task 4 – Operational Efficiency**

Review the existing operations for each of the wells including pump, VFD, and current power consumption history. Using this information, provide recommendations for lowering power consumption and operating costs for the wellfield.

#### Task 5 – Stand By Power Generation

The following evaluations will be conducted under Task 5:

- a. Evaluate two options to provide standby power generation for the wellfield. The goal will be to maximize flow from the wellfield while distributing the pumping across multiple wells so as to not cause over pumping. The options will pay special attention to location, accessibility, environmental sensitivity, and flooding conditions in the area. Life cycle cost estimates will be provided for each option.
- b. Each of the two options identified by AECOM will address improvements which will provide automatic transfer switching, regardless of whether a well is served by a permanently installed generator or a temporary portable generator.
- c. Evaluate a proposal prepared by FPL for the provision of emergency power to the TIFA Area IV Wellfield under FPL's "Optional Supplemental Power Services (OSPS) Program." The FPL proposal documents will be provided by TIFA for AECOM's use.
- d. Provide a comparison of the two options identified by AECOM to the FPL OSPS option including comparative life cycle costs. Identify relative advantages and disadvantages of each option, including consideration of any potential funding assistance identified under AECOM Task 6 (Funding Assistance).

#### Task 6 – Funding Assistance

Review existing grant programs available to water suppliers. Special attention will be paid to the significance of the wellfield to the City of Titusville, and that TIFA is a Public Private Partnership serving the public.

#### Task 7 – Final Report

Each of the deliverables associated with Tasks 2, 3, 4, 5, and 6 above will undergo an independent technical review to verify the quality and integrity of the project tasks and written work products, to verify that the deliverables are in accordance with the scope of work. Once complete, a draft copy of the final report shall be submitted to TIFA for review and comment

### Agreed Schedule

The above Scope of Services contains multiple steps. To provide a quick turn around and meet TIFA's schedule needs, AECOM will use its large talent pool to conduct many of these tasks in parallel. The below bar chart illustrates the schedule and timing for the project.

OPERATIONAL RESILIENCY STUDY SCHEDULE					
	July 2023	August 2023	September 2023	October 2023	November 2023
Task 1					
Task 2					
Task 3					
Task 4					
Task 5					
Task 6					
Task 7					

Commencement Date – July 3, 2023

Completion Date – November 30, 2023

**Fee/Compensation Schedule**

AECOM shall provide the professional consulting engineering services to perform all work listed in the Scope of Services for the lump sum fees as listed below. AECOM shall itemize the invoicing by this same breakdown, with monthly invoices presenting the percent complete for each task

<u>Task</u>	<u>Lump Sum Fee</u>
Kick Off Meeting	\$ 2,290.00
Data Collection	\$ 3,190.00
Commercial Power Resilience	\$ 6,720.00
Well Operation Efficiency	\$ 5,320.00
Stand-by Power Generation	\$ 8,320.00
Funding Assistance	\$ 7,200.00
Final Report	<u>\$16,960.00</u>
Total	\$50,000.00

If TIFA desires to change, expand or add to the services described above, an additional scope will be negotiated. The fee for any change or expansion of services will be based on hourly rates as set forth in the AECOM Hourly Rates Schedule.

**AECOM Hourly Rates Schedule**

JOB CLASSIFICATION TITLE	BILLABLE RATE (ALL INCLUSIVE)
Sr. Project Engineer	\$180
Project Engineer	\$150
Sr. Design Engineer	\$210
Project Design Engineer	\$140
Instrumentation Engineer	\$180
Lead Process Engineer	\$245
Structural Engineer	\$180
Electrical Engineer	\$180
HVAC Engineer	\$170
Sr. Civil Engineer	\$210
Civil Engineer	\$140
Sr. Traffic Engineer	\$260
Traffic Engineer	\$200
Sr. Traffic Analyst	\$200
Traffic Analyst	\$130
Sr. Architect	\$180
Architect	\$145
Sr. Architect Chief Designer	\$250
Architect Chief Designer	\$200
Architect Coordinator	\$185
Construction Engineer	\$180
Construction Manager	\$210
Sr. Construction Field Personnel	\$150
Construction Field Personnel	\$125
Sr. Landscape Architect	\$180
Landscape Architect	\$130
Sr. Landscape Designer	\$145



**AECOM Hourly Rates Schedule (Continued)**

JOB CLASSIFICATION TITLE	BILLABLE RATE (ALL INCLUSIVE)
Landscape Designer	\$85
Sr. Environmental Specialist	\$150
Environmental Engineer	\$190
Ecologist	\$95
Geotechnical Engineer	**
Geologist	\$100
Sr. Hydrologist	\$195
Sr. Hydrogeologist	\$250
Sr. Arborist	\$185
Sr. Planner	\$180
Planner	\$130
Professional Surveyor	**
Survey Project Manager	**
Three-man Field Survey Crew	**
Two-man Field Survey Crew	**
Surveying CAD/Computer Technician	**
Survey Technician	**
Bridge Inspector	**
CEI Inspector	\$125
<u>Additional/Supporting</u>	
Expert Witness - Engineering*	\$350
Engineering Intern	\$110
Engineering Technician	\$95
CADD/Computer Technician	\$110
Sr. CADD Designer	\$165
CAD Designer	\$140
Architectural Intern	\$90

**AECOM Hourly Rates Schedule (Continued)**

JOB CLASSIFICATION TITLE	BILLABLE RATE (ALL INCLUSIVE)
QA/QC Officer	\$250
GIS Specialist	\$175
GIS Analyst	\$110
GIS Technician	\$75
<u>Project Administration</u>	
Principal	\$260
Senior Technical Professional	\$225
Sr. Project Manager	\$220
Project Manager	\$210
Permitting Coordinator/Manager	\$150
Sr. Administrative/Clerical	\$110
Staff Administrative/Clerical	\$95

\* Expert Witness rate shall apply only to actual in-court testimony.

\*\* Will be provided by a subconsultant.

The above rates include salary cost, fringe benefits, overhead, operating margin and profit. They do not include direct expenses. Sub-contractors are considered a direct expense and shall be approved/disapproved during the Task Order approval procedure.

**EXHIBIT 3A**

**RELEASE, HOLD HARMLESS AND INDEMNITY AGREEMENT**

For purposes of this Release, Hold Harmless and Indemnity Agreement (“hereafter referred to as the “Agreement”), the following definitions are hereby established:

“Landowner” – Any of the following entities: Miami Alternatives, LLC; Farmton 5A, LLC

“Indemnitees” – TIFA LLC and its officials, owners, directors, officers, managers, employees, members, representatives, affiliates, successors and agents.

“Company” – \_\_\_\_\_

(Print Company Name)

In consideration of the Indemnitees permitting personnel of the Company to enter into certain designated areas in which the Landowner has an interest in real property, the Company hereby agrees to:

(1) Waive, release and discharge the Indemnitees from any and all liability for death, disability, personal injury, property damage, property theft or action of any kind which may hereafter accrue to owners, directors, officers, managers, employees, members, shareholders, representatives, affiliates, subsidiaries, or agents of the Company, and,

(2) Indemnify and hold harmless Indemnitees from any and all liability or claims made by other individuals or entities as a result of actions on Landowner’s property by the owners, directors, officers, employees, managers, members, shareholders, representatives, affiliates, subsidiaries, or agents of the Company.

(3) Reimburse Indemnitees for any necessary expenses, attorney’s fees and costs incurred in the enforcement of any part of this Agreement plus interest on any amount unpaid at the rate of 18% per annum (or the maximum amount allowed by law, whichever is less) within thirty days after receiving written notice that the Indemnitees have incurred them.

The undersigned Company representative hereby swears that he or she has full legal authority to execute this Agreement on behalf of the Company and full legal authority to bind the Company to the terms of this Agreement.

Witness: \_\_\_\_\_ Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

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

**EXHIBIT 3B**

**RELEASE, HOLD HARMLESS AND INDEMNITY AGREEMENT**

For purposes of this Release, Hold Harmless and Indemnity Agreement (“hereafter referred to as the “Agreement”), the following definitions are hereby established:

“Landowner” – Any of the following entities: Miami Alternatives, LLC; Farmton 5A, LLC

“Indemnitees” – Miami Alternatives, LLC; Farmton Water Resources LLC; Farmton 5A, LLC; and the owners, directors, officers, managers, employees, members, shareholders, representatives, affiliates, subsidiaries, and agents of these named entities.

“Company” – \_\_\_\_\_

(Print Company Name)

In consideration of the Landowner permitting personnel of the Company to enter into certain designated areas in which the Landowner has an interest in real property, the Company hereby agrees to:

(1) Waive, release and discharge the Indemnitees from any and all liability for death, disability, personal injury, property damage, property theft or action of any kind which may hereafter accrue to owners, directors, officers, managers, employees, members, shareholders, representatives, affiliates, subsidiaries, or agents of the Company, and,

(2) Indemnify and hold harmless Indemnitees from any and all liability or claims made by other individuals or entities as a result of actions on Landowner’s property by the owners, directors, officers, employees, managers, members, shareholders, representatives, affiliates, subsidiaries, or agents of the Company.

(3) Reimburse Landowner for any necessary expenses, attorney’s fees and costs incurred in the enforcement of any part of this Agreement plus interest on any amount unpaid at the rate of 18% per annum (or the maximum amount allowed by law, whichever is less) within thirty days after receiving written notice that the Landowner has incurred them.

The undersigned Company representative hereby swears that he or she has full legal authority to execute this Agreement on behalf of the Company and full legal authority to bind the Company to the terms of this Agreement.

Witness: \_\_\_\_\_ Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

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

**EXHIBIT 3C**

**RELEASE, HOLD HARMLESS AND INDEMNITY AGREEMENT**

For purposes of this Release, Hold Harmless and Indemnity Agreement (“hereafter referred to as the “Agreement”), the following definitions are hereby established:

“Landowner” – Any of the following entities: Miami Alternatives, LLC; Farmton 5A, LLC

“Indemnitees” – City of Titusville and its officials, directors, officers, managers, employees, representatives, affiliates, successors and agents.

“Company” – \_\_\_\_\_

(Print Company Name)

In consideration of the Indemnitees permitting personnel of the Company to enter into certain designated areas in which the Landowner has an interest in real property, the Company hereby agrees to:

(1) Waive, release and discharge the Indemnitees from any and all liability for death, disability, personal injury, property damage, property theft or action of any kind which may hereafter accrue to owners, directors, officers, managers, employees, members, shareholders, representatives, affiliates, subsidiaries, or agents of the Company, and,

(2) Indemnify and hold harmless Indemnitees from any and all liability or claims made by other individuals or entities as a result of actions on Landowner’s property by the owners, directors, officers, employees, managers, members, shareholders, representatives, affiliates, subsidiaries, or agents of the Company.

(3) Reimburse Indemnitees for any necessary expenses, attorney’s fees and costs incurred in the enforcement of any part of this Agreement plus interest on any amount unpaid at the rate of 18% per annum (or the maximum amount allowed by law, whichever is less) within thirty days after receiving written notice that the Indemnitees have incurred them.

The undersigned Company representative hereby swears that he or she has full legal authority to execute this Agreement on behalf of the Company and full legal authority to bind the Company to the terms of this Agreement.

Witness: \_\_\_\_\_ Name: \_\_\_\_\_

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

Signature: \_\_\_\_\_

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

### *THIRD ORDER OF BUSINESS*

**TIFA LLC**  
**INVOICE APPROVAL BY MANAGERS**

**WHEREAS**, the undersigned are the duly appointed and acting Managers of TIFA LLC, which operates pursuant to that certain Limited Liability Company Operating Agreement of TIFA LLC dated May 24, 2010 ("Operating Agreement"); and,

**WHEREAS**, at a duly called and noticed public meeting of the Managers as indicated below, the undersigned approved the contract and/or authorized the expenditure as indicated below, and further authorized the managers to execute the Invoice Approval by Managers form reflecting such authorized expenditures in order to process payments.

**Previous Authorizations**

<b>TIFA Meeting Date</b>	<b>Approved</b>	<b>Total Contract or Expenditure Authorized</b>
7/20/2023	Imprest Account Reimbursement from Depository Account	See Attached

**NOW, THEREFORE**, the Managers of TIFA LLC, based upon the previous TIFA authorizations, approve the following payments:

<b>Invoice Description</b>	<b>Total Amount</b>	<b>Pursuant to Previous TIFA Authorization Date</b>	<b>Invoice Payment</b>
Transfer to imprest account at Northern Trust ending *8866	\$13,323.10	7/20/2023	To be Paid by TIFA upon this approval

Except as otherwise set forth herein, defined terms shall have the meaning set forth in the Operating Agreement. This Action may be executed in several counterparts, and all counterparts so executed shall constitute one Approval binding on all parties.

**IN WITNESS WHEREOF**, the undersigned represent and warrant that each is the duly authorized and appointed agent of TIFA LLC.

\_\_\_\_\_  
Robert E. Lee, Manager

Date: \_\_\_\_\_, 2023

\_\_\_\_\_  
Jim Ball, Manager

Date: \_\_\_\_\_, 2023

**TIFA LLC**  
**Check Detail**  
June 13 through July 14, 2023

Type	Num	Date	Name	Account	Paid Amount	Original Amount
Check	ACH07032023	07/03/2023	Cardmember Service	103.00 · Cash- Nort...	-2,995.59	-2,995.59
TOTAL				203.50 · Northern Tr...	-2,995.59	2,995.59
					-2,995.59	2,995.59
Bill Pmt -Check	ACH07142023	07/14/2023	Florida Power & Light	103.00 · Cash- Nort...	-8,327.51	-8,327.51
Bill	18790-42503Jul23	07/03/2023		511.00 · Utilities	-903.06	903.06
Bill	32610-23505Jul23	07/03/2023		511.00 · Utilities	-855.05	855.05
Bill	54996-25506Jul23	07/03/2023		511.00 · Utilities	-624.27	624.27
Bill	74008-14500Jul23	07/03/2023		511.00 · Utilities	-726.76	726.76
Bill	11526-54016Jul23	07/03/2023		511.00 · Utilities	-377.19	377.19
Bill	47893-42013Jul23	07/03/2023		511.00 · Utilities	-711.38	711.38
Bill	54213-71161Jul23	07/03/2023		511.00 · Utilities	-437.04	437.04
Bill	75317-43016Jul23	07/03/2023		511.00 · Utilities	-704.42	704.42
Bill	83665-19117Jul23	07/03/2023		511.00 · Utilities	-407.54	407.54
Bill	09060-50505Jul23	07/03/2023		511.00 · Utilities	-387.59	387.59
Bill	24869-01248Jul23	07/03/2023		511.00 · Utilities	-392.60	392.60
Bill	40983-63494Jul23	07/03/2023		511.00 · Utilities	-348.62	348.62
Bill	62400-69564Jul23	07/03/2023		511.00 · Utilities	-406.54	406.54
Bill	73681-7557Jul23	07/03/2023		511.00 · Utilities	-374.22	374.22
Bill	76846-91016Jul23	07/03/2023		511.00 · Utilities	-671.23	671.23
TOTAL					-8,327.51	8,327.51
Bill Pmt -Check	1385	07/14/2023	The Colinas Group	103.00 · Cash- Nort...	-2,000.00	-2,000.00
Bill	O-869-10	06/21/2023		508.00 · Wetland M...	-2,000.00	2,000.00
TOTAL					-2,000.00	2,000.00