

CONSULTANT AGREEMENT
CONTRACT No. C9434

THIS CONTRACT ("Contract") is entered into by and between the County of Kaua'i, a political subdivision of the State of Hawai'i (hereinafter "County"), whose place of business and mailing address is 4444 Rice Street, Suite 235, Līhu'e, Kauai, Hawai'i 96766 and Smith Dawson & Andrews, Inc., a District of Columbia corporation, 1150 Connecticut Avenue, Suite 1025, Washington, D.C. 20036 (hereinafter "Consultant").

W I T N E S S E I H:

WHEREAS, the County desires to engage the services of a Washington D.C. representative with legislative lobbying expertise to identify and provide analysis and strategic input on financial resources and grants available to the County and to assure appropriate processing of available funds; and

WHEREAS, this procurement is permissible as an exempt procurement pursuant to Hawai'i Administrative Rules (H.A.R.) Section 3-120, has satisfied the public posting requirements of H.A.R. Section 3-120-5, and is assigned Exemption #2017-EX-4 ;
and

WHEREAS, the Consultant is competent, qualified, ready, willing and able to render such services;

NOW, THEREFORE, in consideration of the terms, conditions, and agreements contained herein, the parties agree as follows:

1. Employment of Consultant. County hereby retains the Consultant to perform, and the Consultant agrees to perform the services set forth in this Agreement.

2. Scope of Services. In order to advocate and promote the County's positions, the Consultant shall:

- a. Conduct a collaborative review with County to match County's programs, activities, and strategic plans with potential sources of federal funds, from regular agency grant programs to new legislative authorizations and reauthorizations of existing legislation;
- b. In collaboration with County, determine priorities and optimal methods of obtaining County's objectives;
- c. Identify, monitor and report monthly on federal funding opportunities, including grants and other types of federal funding that may be available to assist County's department, agencies, programs and activities;
- d. Identify non-traditional sources and partnerships to benefit the County and replace some of the federal programs that are no longer viable;
- e. Draft appropriation and grant requests and facilitate the timely submission of applications, submittals and documentation required by, or in connection with, the funding source from initial submittal through allocation of funds to the County;
- f. Respond to inquiries from federal or state agencies related to funding requests by the County;
- g. Provide monthly reports on submittals to funding sources and the status of the funding requests, major accomplishments and activities;

- h. Advise County on how to deal with federal rules and regulations, and Congressional riders, such as federal penalties, that could negatively impact the County;
 - i. As requested, collaborate with the Mayor, Kaua'i County Council, department heads and/or designated staff on a proactive federal agenda and advocacy strategy to advance and protect the interests of the County;
 - j. As requested, assist County in planning, evaluating and executing strategies and actions relating to the legislative and public review process;
 - k. As requested, attend periodic meetings with the Administration and Council to provide status reports as may be requested;
 - l. Other related duties as determined by County to be in the best interest of County.
3. Time of Performance. The Consultant shall perform all services set forth in Section 2 of this Contract within three hundred sixty five (365) calendar days from the Notice to Proceed issued by the County, excluding the time which the Officer-In-Charge suspends Consultant's work for review, or any reason as determined necessary by the Officer-in-Charge.
4. Compensation. County agrees to pay Consultant in accordance with the following:
- a. Total compensation for Consultant pursuant to this Contract and any extension of this Contract shall not exceed Fifty-Three Thousand Dollars (\$55,000.00), which shall include all federal, state and local taxes. Consultant shall be paid on a monthly basis the amount of Four Thousand

Five Hundred Eighty-Three Dollars and Thirty-Three Cents (\$4,583.33).

Upon submission of the monthly invoice to the County, the Consultant shall include 1.) a description of all activities provided to, or on behalf of the County and 2.) a monthly report of active federal legislation and grants relevant to the County.

- b. County will not pay for any out of pocket expenses that may be incurred by the Consultant while performing his duties. The Consultant shall be responsible for any fines, sanctions, or violations of law incurred during the performance of this Agreement.
- c. Payments shall be made to Smith Dawson & Andrews, Inc., 1150 Connecticut Avenue, Suite 1025, Washington, D.C. 20036

5. Relationship of Parties; Independent Contractor Status and Responsibilities.

- a. In the performance of the Contract, the Consultant is an "independent contractor," with the authority and responsibility to control and direct the performance and details of the requirements of this Contract; however, the County shall have a general right, from time to time, to monitor the progress of contract performance, and to determine whether, in the County's opinion, the Consultant is in compliance with the provisions of this Contract. It is understood that the County does not agree to use the Consultant exclusively, and that the Consultant is free to contract with other individuals or entities while under contract with the County.
- b. The Consultant and the Consultant's employees and agents are not by reason of this Contract, agents or employees of the County for any

purpose, and the Consultant and the Consultant's employees and agents shall not be entitled to claim or receive from the County any vacation, sick leave, retirement, workers' compensation, unemployment insurance, or other benefits provided to County employees.

- c. The Consultant shall be responsible for the accuracy, completeness, and adequacy of the Consultant's performance under this Contract. Furthermore, the Consultant intentionally, voluntarily, and knowingly assumes the sole and entire liability to the Consultant's employees and agents, and to any individual not a party to this Contract, for all loss, damage, or injury caused by the Consultant, or the Consultant's employees or agents in the course of their employment.
- d. The Consultant shall be responsible for payment of all applicable federal, state, and county taxes and fees which may become due and owing by the Consultant by reason of this Contract, including but not limited to (i) income taxes, (ii) employment-related fees, assessments, and taxes, and (iii) general excise taxes. The Consultant also is responsible for obtaining all licenses, permits, and certificates that may be required in order to perform the Contract.
- e. The Consultant shall obtain a general excise tax license from the Director of Taxation, State of Hawaii, in accordance with Chapter 237, HRS, or exemption there from and shall comply with all requirements thereof.

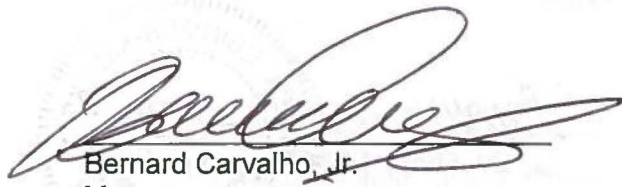
- f. The Consultant shall be solely responsible for meeting all requirements necessary to obtain the tax clearance certificate required by Hawai'i Revised Statutes (H.R.S.) Section 103-53.
6. Officer-in-Charge. The Managing Director or designee shall be in charge of this Contract, shall represent the County on all matters relating to this Contract, and shall have the authority and responsibility to act on behalf of County to resolve any disputes with Consultant relating to this Contract.
7. General Terms and Conditions. The Consultant agrees to the terms and conditions contained in the General Terms and Conditions for Goods and Services Contracts, dated December 1, 2000, ("General Terms") which is not attached hereto but is incorporated by reference and made a part of this Contract.
8. Insurance. Consultant agrees to maintain, on a primary basis and at its sole expense, at all times during the life of the Contract, the insurance coverages, limits, including endorsements, described in the attached Insurance Requirements ("Exhibit A").
9. Complete Agreement. This Contract, Exhibit A, and the County's General Terms (collectively, "Contract Documents"), constitutes the final and complete Agreement between the Parties with respect to the subject matter of this Contract. Contractor acknowledges receipt of all Contract Documents. This Agreement supersedes all prior understandings, agreements, and documentation relating to such subject matter.

10. Counterparts/Facsimiles. This Contract may be signed in counterparts with the same effect as if the signatures to each such counterpart were upon a single instrument and all such counterparts shall constitute the same agreement. The signatures of each of the parties need not appear on the same counterpart, and in the event that any signature is delivered by facsimile transmission or by e-mail delivery of a ".pdf" format data file, such signature shall create a valid and binding obligation of the party executing (or on whose behalf such signature is executed) with the same force and effect as if such facsimile or ".pdf" signature page were an original thereof, provided that the original signature shall be provided within Ten (10) calendar days of submission of the facsimile signature.
11. Governing Law. The validity of this Contract and any of its terms or provisions, as well as the rights and duties of the parties to this Contract shall be governed by the laws of the State of Hawaii. Any action at law or in equity to enforce or interpret the provisions of this Contract shall be brought in a state court of competent jurisdiction in Lihue, Hawaii.
12. No Waiver. Any failure by the County to exercise its discretion in the event of a breach by the Contractor of any provision contained herein shall not be deemed a waiver of the County's right to exercise later its discretion to terminate this Contract or otherwise act upon the breach.
13. Severability. In the event any term or provision of this Agreement is declared to be invalid or illegal for any reason, this Agreement will remain in full force and effect and will be interpreted as though such invalid or illegal provision were not a part of this Contract.

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IN WITNESS WHEREOF, the parties hereto have executed this Contract as of
the 20th day of September, 2016.

RECOMMENDED APPROVAL:

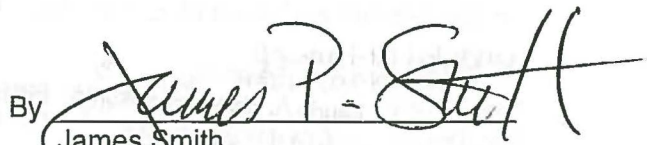

Bernard Carvalho, Jr.
Mayor

APPROVED AS TO
FORM AND LEGALITY:


Deputy County Attorney

CONSULTANT:

SMITH DAWSON & ANDREWS, INC.

By 
James Smith
President

COUNTY OF KAUAI

By 
Ken Shimonishi
Director of Finance

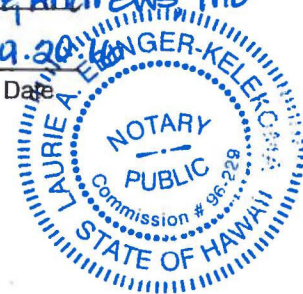
STATE OF HAWAII)
) ss.
COUNTY OF KAUAI)

On this 30th day of September, 2016, before me appeared **KEN SHIMONISHI**, to me personally known, who, being by me duly sworn, did say that he is the Director of Finance of the COUNTY OF KAUAI, a political subdivision of the State of Hawaii; that said instrument was signed on behalf of said COUNTY OF KAUAI by authority of its Charter; and said **KEN SHIMONISHI**, acknowledged said instrument to be the free act and deed of said COUNTY OF KAUAI.

undated at time of
Doc. Date: notarization # Pages: 13
Notary Name: Laurie A. Ebinger-Kelekomia
Doc. Description: Contract 9434
Smith, Dawson & Andrews Inc

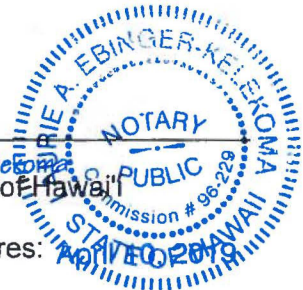
Fifth
Circuit

Laurie
Notary Signature Date



Laurie A. Ebinger-Kelekomia
Notary Public, State of Hawaii

My commission expires: NOV 10 2019



WASHINGTON

)
) ss.
)

DISTRICT OF COLUMBIA

On this 17 day of September, 2016, before me appeared James Smith, to me personally known, who, being by me duly sworn, did say that he is the President of SMITH DAWSON & ANDREWS, INC., that the foregoing instrument was signed in the name of and on behalf of said corporation, and said James Smith acknowledged that he executed the same as his free act and deed and as the free act and deed of said corporation.

[Signature] 9-17-16
Notary Signature Date

Notary Public, District of Columbia My Commission Expires
February 28, 2021

My commission expires: _____

