

Florida Resources and Environmental Analysis Center (FREAC)

Agreement for Professional Consulting Services

This Agreement is entered into by the Florida Legislature (Legislature), consisting of the Florida House of Representatives (House) and the Florida Senate (Senate), and the Florida Resources and Environmental Analysis Center (FREAC) within the Institute of Science and Public Affairs at Florida State University (Consultant).

1. Purpose

The Legislature retains the Consultant for the purpose of consulting and rendering other professional services relating to information systems database construction and related matters.

2. Qualifications

The Consultant represents that it has the training, skills, and experience necessary to perform the services described.

3. Scope of Services

The Consultant agrees to perform services in a satisfactory and proper manner.

The Consultant will evaluate applicable data and apply consistent methodologies to construct precinct maps conflated to the geometry of spatial features in the U.S. Census Bureau Topologically Integrated Geographic Encoding and Referencing system and digital database (TIGER). In particular, the Consultant will assemble precinct-level map data (ESRI shapefiles depicting precinct boundaries) for all 67 Florida counties and for statewide elections held in and after 2012 using data provided by the Legislature in conjunction with other publicly available data or information held or obtained by the Consultant. All outputs will be in the same projection or coordinate system as the U.S. Census TIGER shapefiles.

In accordance with this agreement, the Consultant agrees to deliver to the Legislature the following:

- a. By June 1, 2020, precinct map shapefiles for each of the 7 counties in Deliverable Group I in Exhibit "A", attached hereto and incorporated herein by reference, for each statewide election held in 2012 through 2018.
- b. By July 10, 2020, precinct map shapefiles for each of the 15 counties in Deliverable Group II in Exhibit "A", attached hereto and incorporated herein by reference, for each statewide election held in 2012 through 2018.
- c. By August 31, 2020, precinct map shapefiles for each of the 15 counties in Deliverable Group III in Exhibit "A", attached hereto and incorporated herein by reference, for each statewide election held in 2012 through 2018.
- d. By October 15, 2020, precinct map shapefiles for each of the 15 counties in Deliverable Group IV in Exhibit "A", attached hereto and incorporated herein by reference, for each statewide election held in 2012 through 2018.
- e. By November 16, 2020, precinct map shapefiles for each of the 15 counties in Deliverable Group V in Exhibit "A", attached hereto and incorporated herein by reference, for each statewide election held in 2012 through 2018.

- f. By December 1, 2020 precinct map shapefiles for each of the 67 Florida counties for the statewide election held in 2020.
- g. As soon as feasible, but no later than December 31, 2020, all necessary adjustments to the 67 county precinct-level map shapefiles resulting from a verification by each of the counties' Supervisors of Elections to be coordinated by the Legislature.
- h. By the term of this agreement, all geoprocessing scripts, tables, or shapefiles used in creating or editing the shapefiles described above.
- i. By the term of this agreement, documentation of all applicable data and methodologies used to assemble the precinct-level map shapefiles subject of this agreement.

4. Consideration

The Consultant will be compensated by the Legislature the amount of fifty eight thousand one hundred thirty and 00/100 dollars (\$58,130.00) for performing the duties enumerated under the Scope of Service, as follows:

- a. The Legislature will pay the Consultant \$14,532.50 upon the satisfactory delivery of deliverables under paragraphs 3.a. and 3.b.
- b. The Legislature will pay the Consultant \$14,532.50 upon the satisfactory delivery of deliverables under paragraphs 3.c. and 3.d.
- c. The Legislature will pay the Consultant \$14,532.50 upon the satisfactory delivery of deliverables under paragraphs 3.e. and 3.f.
- d. The Legislature will pay the Consultant \$14,532.50 upon finalization of all adjustments to the 67 county precinct-level map shapefiles required as a result of the verification described in paragraph 3.g., and the submission of all data and work product collected, utilized, or created pursuant to this Agreement, including the items described in paragraphs 3.h. and 3.i..

5. Payment Terms

All invoicing and payments will be made in accordance to Policies 3.5 and 3.5.1, *Joint Policies and Procedures of the Presiding Officers* (2018).

6. Work for Hire and Confidentiality

Any and all data, files, and work product collected, utilized, or created pursuant to this Agreement, in whatever form, shall be the property of the Legislature, except insofar as such data, files, and work product exist in the public domain independent of the work contemplated by this Agreement. The Consultant agrees to not make use of such property of the Legislature unless specifically authorized by this Agreement or separately authorized in writing by the Legislature's Contract Managers.

The Consultant further agrees that it will not disclose to any third party any data, files, or work product collected, utilized, or created pursuant to this Agreement, or any information contained therein, unless specifically authorized by this Agreement or separately authorized in writing by the Legislature's Contract Managers.

All data, files, and work product collected, utilized, or created pursuant to this Agreement must be provided to the Legislature upon the conclusion of the Agreement in a format mutually agreed upon by the parties.

7. Patents and Copyrights

The Consultant agrees that if any discovery or invention arises or is developed in the course of or as a result of the services performed under this Agreement, or in any way connected herewith, the Consultant shall notify the Legislature's Contract Managers. Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the Legislature.

The Consultant shall notify the Legislature's Contract Managers if any books, manuals, forms or other copyrightable material is produced in the course of or as a result of the services performed under this Agreement. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby reserved to the Legislature.

8. Term

This Agreement commences upon execution and will continue through December 31, 2020.

9. Termination for Convenience

The Legislature, with seven (7) days advance written notice to Consultant, may terminate this Agreement, in whole or in part, at any time for any reason. The Legislature will reimburse the Consultant for costs actually incurred for authorized services satisfactorily performed prior to the Consultant's receipt of the written notice of termination.

10. Availability of Funds

The performance of this Agreement shall be subject to and contingent upon the availability of funds appropriated by the Legislature.

11. Subcontractors or Third Party Vendors

The Consultant may not use any subcontractors or third party vendors without the prior written consent of the Legislature's Contract Managers.

12. Prohibition against Assignment

This Agreement is an exclusive contract for personal services and may not be assigned in whole or in part without the prior written consent of the Legislature's Contract Managers. The Consultant agrees that only the Consultant's employees will perform services under this Agreement.

The Consultant represents that performance of other contractual services for any agency, entity, or person will not interfere with the faithful and timely performance by the Consultant under this Agreement.

13. Warranties

The Consultant warrants that it is qualified and possesses the requisite skills, knowledge, experience and necessary staff to provide the services to be provided in this Agreement. The Consultant shall devote such time and effort to the performance of the services as may be necessary to satisfactorily complete the services. The Consultant agrees that its performance of any other services during the Term will not interfere with the faithful and timely performance of this Agreement.

The Consultant warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial conditions that would in any way prohibit, restrain, or diminish the Consultant's ability to satisfy its obligations.

The Consultant warrants that the services will be provided in a professional manner and in accordance with the standards generally observed in the industry for similar services and will be provided with reasonable skill and care. The Consultant will use its reasonable best efforts to maintain continuity in its staff engaged in providing these services.

14. Public Records

Both the Consultant and the Legislature are public entities subject to public records requirements under Article I, Section 24, The Constitution of the State of Florida and applicable statutes. Unless specifically exempted by law, all records made or received by the Consultant in conjunction with this Agreement may be public records available for inspection by the public. However, as set forth in Paragraph 6 of this Agreement, "[a]ny and all data, files, and work product collected, utilized, or created pursuant to this Agreement, in whatever form, shall be the property of the Legislature, except insofar as such data, files, and work product exist in the public domain independent of the work contemplated by this Agreement." Accordingly, those data, files, and work product are "legislative records" under Chapter 11, F.S., and it is the Legislature's duty and responsibility to respond to public records requests that seek them, including by determining whether such records are exempt from production under the provisions of Chapter 11 or any other applicable law. See, e.g., § 11.0431(2)(e), F.S. ("Any supporting documents associated with" a reapportionment or redistricting plan or amendment are exempt from disclosure "until a bill implementing the plan, or the amendment, is filed.").

In order to ensure that records subject to an exemption are not disclosed, the Consultant agrees to notify the Legislature's Contract Managers immediately upon receiving a request to disclose any documents or records in the Consultant's possession that are related to this Agreement. The Consultant also agrees to not allow any inspection of or otherwise disclose any information found in said documents or records unless and until so directed by the Legislature's Contract Managers. Refusal of the Consultant to allow public access to such records after approved by the Legislature's Contract Managers will constitute grounds for termination of this Agreement.

15. Advertisement

The Consultant shall neither publish nor release to any third party any report, news release, publication, or advertisement that refers to the services to be performed hereunder without the prior written authorization by the Legislature's Contract Managers. The Consultant must refer all contacts by the media or other third-party requests for information to the Legislature's Contract Managers.

16. Lobbying

The Consultant will not represent any interest before the Legislature as a lobbyist on matters under the scope of services of this Agreement, whether directly or with funds received under this Agreement, while this Agreement is in effect.

17. Resolution of Disputes

Any disputes between the parties as to the application, meaning or interpretation of any part of this Agreement will be resolved in Leon County, Florida in state court by application of Florida law.

18. Termination for Cause

Any one or more of the following events will constitute an Event of Default on the part of the Consultant:

- a. Consultant fails to provide the Services as required under this Contract;
- b. Consultant discontinues the performance of work required under this Contract;
- c. Consultant makes or has made a material misrepresentation or omission in any materials provided to the Legislature;
- d. Consultant fails to promptly pay any and all taxes or assessments imposed by and legally due any state or federal government;
- e. Consultant commits any material breach of the Contract; or
- f. Consultant refuses to allow public access to any documents or other records made or received by the Consultant in conjunction with the Contract and which the Legislature's Contract Managers approve for copying and inspection by the public.

Upon the occurrence of an "Event of Default" on the part of the Consultant, the Legislature is entitled to any and all of legal and equitable remedies.

19. Contract Managers and Notices

The Contract Manager on behalf of the **House** is:

Michelle Davila
Senior Advisor
420 The Capitol
402 South Monroe Street
Tallahassee, FL 32399
(850) 717-5000

The Contract Manager on behalf of the **Senate** is:

Jay Ferrin
Program Administrator
2000 The Capitol
404 South Monroe Street
Tallahassee, FL 32399
(850) 487-5270

The Contract Manager on behalf of the **Consultant** is:

Gary Ostrander
Vice President for Research
Florida State University
874 Traditions Way
Tallahassee, FL 32306-4166
(850) 644-5260

The Technical Contact on behalf of the **Consultant** is:

Stephen W. Hodge
UC6140 University Center
Florida Resources and Environmental Analysis Center
Florida State University, Tallahassee, FL 32306-2641
(850) 644-2882

All legal or other notices or other communications required or permitted under this Agreement must be addressed to the Contract Managers in writing and either hand delivered, mailed via U.S. mail or express overnight courier with a reliable system for tracking delivery or confirmed electronic mail.

The Consultant must immediately notify the Legislature's Contract Managers if there is a change of physical address, telephone number, or email address. A change in the Technical Contact on behalf of the Consultant requires consent of the Legislature's Contract Managers.

20. Independent Contractor

In performing services pursuant to this Contract, Consultant is acting as an independent contractor and not as an employee of the Legislature and, therefore, will not be entitled to fringe benefits normally provided by the Legislature to its employees, including without limitation retirement benefits, life insurance, disability insurance, health insurance, worker's compensation insurance, unemployment insurance, and group insurance. Consultant has no authority hereunder to assume or create any obligation or responsibility, express or implied, on behalf of, or in the name of the Legislature, or to bind the Legislature in any way.

21. Waivers

The Legislature shall not be deemed to have waived any of its rights or remedies hereunder unless such waiver is in writing and signed by the Legislature. No delay or omission on the part of the Legislature in exercising any of its rights or remedies will operate as a waiver of such right or remedy.

22. Limitation of Liability

Neither the Legislature nor the Consultant is liable to another for special, indirect, punitive or consequential damages, including lost data or records even if the party has been advised that such damages are possible. Neither party shall be liable for lost profits, lost revenue or lost institutional operating savings.

23. Entire Contract

This Contract constitutes the entire understanding of the parties to it and supersedes any prior contracts, written or oral, related to the same subject matter. This Contract cannot be changed except in writing by the signature of both parties. However, reasonable changes to the deliverables due dates may occur upon written request and justification by the Consultant and written approval by the Legislature's Contract Managers.

24. Execution in Counterparts

The Contract may be executed in counterparts, each of which will be an original and all of which will constitute one and the same contract. Delivery of an executed counterpart of a signature page by e-mail, facsimile, or other electronic transmission will be effective as delivery of a manually executed counterpart.

Executed by the parties on the dates shown below:

The Florida House of Representatives:



Jose Oliva, Speaker

Date: _____

The Florida Senate:



Bill Galvano, President

Date: 5-8-2020

Florida State University:

Russell D.

Lentz for

Digitally signed by Russell
D. Lentz for
Date: 2020.05.14 14:04:30
-04'00'

Name: Gary K. Ostrander, VP for Research

Date: 5-14-2020

Florida Resources and Environmental Analysis Center (FREAC)

Agreement for Professional Consulting Services

Exhibit "A" – Deliverable Groups

County	County Code	Deliverable Group
Brevard	BRE	1
Clay	CLA	1
Hendry	HEN	1
Leon	LEO	1
Orange	ORA	1
Pasco	PAS	1
Union	UNI	1
Alachua	ALA	2
Baker	BAK	2
Bay	BAY	2
Bradford	BRA	2
Broward	BRO	2
Calhoun	CAL	2
Charlotte	CHA	2
Citrus	CIT	2
Collier	CLL	2
Columbia	CLM	2
Miami-Dade	DAD	2
DeSoto	DES	2
Duval	DUV	2
Lake	LAK	2
Lee	LEE	2
Dixie	DIX	3
Escambia	ESC	3
Flagler	FLA	3
Franklin	FRA	3
Gadsden	GAD	3
Gilchrist	GIL	3
Glades	GLA	3
Gulf	GUL	3
Hamilton	HAM	3
Hardee	HAR	3
Hernando	HER	3
Hillsborough	HIL	3
Polk	POL	3
Sarasota	SAR	3
Volusia	VOL	3
Highlands	HIG	4
Holmes	HOL	4
Indian River	IND	4

County	County Code	Deliverable Group
Jackson	JAC	4
Jefferson	JEF	4
Lafayette	LAF	4
Levy	LEV	4
Liberty	LIB	4
Madison	MAD	4
Manatee	MAN	4
Monroe	MON	4
Marion	MRN	4
Martin	MRT	4
Osceola	OSC	4
Palm Beach	PAL	4
Nassau	NAS	5
Okaloosa	OKA	5
Okeechobee	OKE	5
Pinellas	PIN	5
Putnam	PUT	5
Santa Rosa	SAN	5
Seminole	SEM	5
St. Johns	STJ	5
St. Lucie	STL	5
Sumter	SUM	5
Suwannee	SUW	5
Taylor	TAY	5
Wakulla	WAK	5
Walton	WAL	5
Washington	WAS	5