WHEREAS, Islamorada, Village of Islands (the “Village”) retained the services of Alcalde & Fay LTD (the “Consultant”) for Professional Federal Lobbying Services on July 1, 2012 following a Request for Qualifications process, formal ranking procedure, approval by the Village Council with adoption of Resolution 12-05-40, and negotiation of an Agreement; and

WHEREAS, the intent of the Professional Federal Lobbying Services is to represent the Village’s interests with regard to federal legislative issues and especially those related to wastewater and related funding matters; and

WHEREAS, in accordance with the provisions of the Professional Federal Lobbying Consulting Services Agreement (the “Agreement”), the Village has the option to extend the term of the Agreement upon the same terms and conditions for two (2) successive one (1) year periods; and

WHEREAS, the Consultant has agreed to provide the services described in the Agreement for an additional one (1) year period; and

WHEREAS, the Village Council finds that approval of the First Amendment to the Agreement (“First Amendment”) attached hereto is in the best interest of the Village.
NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF
ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of First Amendment. The First Amendment to the Agreement between Alcalde & Fay LTD and the Village to provide Professional Federal Lobbying services, a copy of which is attached as Exhibit A, together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney, is approved.

Section 3. Authorization of Village Officials. The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the First Amendment.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village’s Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the First Amendment.

Section 5. Execution of First Amendment. The Village Manager is authorized to execute the First Amendment on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the First Amendment and to execute any extensions and/or amendments to the First Amendment, subject to the approval as to form and legality by the Village Attorney.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.
Motion to adopt by Councilwoman Gillis; second by Councilman Forster.

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS:

Mayor Ken Philipson       YES
Vice Mayor Ted Blackburn  YES
Councilman Mike Forster   YES
Councilwoman Deb Gillis   YES
Councilman Dave Purdo     YES

PASSED AND ADOPTED this 23rd day of May, 2013.

KEN PHILIPSON, MAYOR

ATTEST:

ARIANA S. LAWSON, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS:

VILLAGE ATTORNEY
FIRST AMENDMENT
PROFESSIONAL FEDERAL LOBBYING CONSULTING SERVICES AGREEMENT
BETWEEN
ISLAMORADA, VILLAGE OF ISLANDS
AND
ALCALDE & FAY LTD

THIS FIRST AMENDMENT to the Professional Services Agreement (the “First Amendment”) is made between ALCALDE & FAY LTD a Virginia corporation (the “Consultant”), and ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, a Florida municipal corporation (the “Village”).

WHEREAS, the Consultant and the Village entered into a the certain Professional Federal Lobbying Consulting Services Agreement (“the Agreement”) effective July 1, 2012, attached hereto as Exhibit 1; and

WHEREAS, in accordance with the provisions of the “Agreement”, the Village has the option to extend the term of the Agreement upon the same terms and conditions for two (2) successive one (1) year periods; and

WHEREAS, the Consultant has agreed to provide the services described in the Agreement for an additional one (1) year period; and

WHEREAS, the parties desire to enter into this First Amendment to modify the terms of the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions set forth in this First Amendment, the Consultant and the Village agree as follows.

Section 1. Amendment to Agreement. The Agreement is amended to read as follows:

***

2. Term/Commencement Date.

2.1 Unless otherwise terminated pursuant to Section 4, this Agreement shall be effective on July 1, 2012 2013 and shall continue through June 30, 2013 2014. (the “Term”)

***

Section 2. No Further Modifications. All other terms and conditions of the existing Agreement not in conflict or superseded by this First Amendment shall remain in full force and effect as set for the herein.

Section 3. Effective Date. This First Amendment shall be effective on July 1, 2013.
IN WITNESS WHEREOF, the parties execute this First Amendment on the respective dates under each signature: The Village, signing by and through its Village Manager, attested to by its Village Clerk, and by Consultant by and through its principal.

Attest: Ariana Lawson, Village Clerk

ISLAMORADA, VILLAGE OF ISLANDS

By: Edward Koconis, Village Manager

Date: 6/4/13

ALCALDE & FAY

By: James Davenport, Partner

Date: 5/28/13

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS ONLY

VILLAGE ATTORNEY
THIS AGREEMENT is made between ALCALDE & FAY LTD a Virginia corporation (the “Consultant”), and ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, a Florida municipal corporation (the “Village”).

WHEREAS, the Consultant and the Village, through mutual negotiation, have agreed upon Scope of Services and Fee for Professional Federal Lobbying Services for the Village; and

WHEREAS, the Village desires to engage the Consultant to perform the Services specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the Village agree as follows.

1. **Scope of Services (the“Services”).**

1.1 The Consultant agrees to provide consulting and representative services for the Village before the United States Congress, Federal agencies and governmental entities.

1.2 Specifically, the Consultant shall provide the following Services.

1.2.1 Assist the Village in developing a wastewater oriented legislative program.

1.2.2 Monitor and report on all programs of interest to the Village, especially those related to wastewater funding matters.

1.2.3 Represent the Village’s interests before the United States Congress and any executive branch, body, committee, federal agency and/or other entity that could be of benefit to the Village’s interests.

1.2.4 Monitor and track all legislation and activities of interest to the Village.

1.2.5 Report no less than weekly during the congressional sessions and monthly during non-session months to the Village Manager and Village Attorney on all legislation being tracked. During the congressional session, more frequent reports may be provided on
specific bills identified by the consultant as having a direct impact on the Village. Reports shall be sent electronically.

1.2.6. Host Village officials during visits to Washington D.C. on Village business and arrange all necessary and appropriate meetings.

1.2.7. Attend staff meetings, workshops or Council meetings in Islamorada at the Village Manager’s request.

2. **Term/Commencement Date.**

2.1. Unless otherwise terminated pursuant to Section 4, this Agreement shall be effective on July 1, 2012 and shall continue through June 30, 2013. (the “Term”)

2.2. The Village shall have an option to extend the term of this Agreement upon the same terms and conditions contained herein for two (2) successive one (1) year periods. (the “Renewal Term(s)’)

2.3. Each Renewal Term shall be effective upon receipt of a written notice from the Village Manager to the Consultant, received no later than thirty (30) days prior to the date of expiration of the then current Term or Renewal Term.

3. **Compensation and Payment.**

3.1. For all the Services provided by the Consultant as described in Section 1., the Village shall pay the Consultant monthly compensation of $5,050.00.

3.2. The Consultant shall additionally be entitled to reimbursement of reasonable travel expenses incurred directly on behalf of the Village to travel to and from the Village, provided that any such expense is first approved in writing by the Village Manager.

3.3. The Consultant shall remit monthly invoices for services rendered and shall include any approved travel reimbursements with appropriate receipts for the same to document the expense.

3.4. Compensation to the Consultant shall payable in accordance with the Florida Prompt Payment Act.

4. **Termination.**

4.1. Notwithstanding the provisions of Section 2, either party may terminate this Agreement at any time upon thirty (30) days advance written notice to the other party.
4.2 In the event of such termination, the Village shall be obligated to the Consultant only for the pro-rated monthly compensation incurred prior to the termination date.

5. **Insurance.**

5.1 The Consultant shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts as specified below naming the Village as an additional insured entity, underwritten by a firm qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall include a minimum of the following.

5.1.1 **Commercial General Liability.** Commercial general liability insurance with limits of liability not less than One Million Dollars ($1,000,000.00).

5.1.2 **Worker’s Compensation and Employer’s Liability Insurance.** Workers’ Compensation Insurance for statutory limits as required by applicable State and Federal laws.

5.1.3 **Employer’s Liability Insurance.** Employer’s Liability Insurance shall be provided at the statutory coverage amount with a minimum of One Hundred Thousand Dollars ($100,000.00) per accident. The Consultant shall agree to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

5.1.4 **Business Automobile Liability Insurance.** Business Automobile Liability Insurance with minimum limits of One Million Dollars ($1,000,000.00) per person, per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability each. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include Owned Vehicles, Hired and Non-Owned Vehicles and Employers’ non-Ownership.

5.2 Certificates of insurance shall be provided to the Village at the time of execution of this Agreement as well as certified copies, as requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days written notice shall be provided to the Village before any policy or coverage is cancelled or restricted.
6. **Nondiscrimination.**

6.1 During the term of this Agreement, the Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and agrees to abide by all Federal and State laws regarding nondiscrimination.

7. **Attorneys Fees and Waiver of Jury Trial.**

7.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

7.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to a trial by jury.

8. **Indemnification.**

8.1 The Consultant shall defend, indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, directly caused by the Consultant’s negligent acts, errors, or omissions in the performance or non-performance of any provisions of this Agreement, including but not limited to, liabilities arising from contracts between the Consultant and its employees, volunteers or agents. The Consultant shall reimburse the Village for all its expenses including reasonable attorneys’ fees and costs incurred in and about the defense of any claim or investigation and for any judgment or damages directly caused by the Consultant’s negligent acts, errors, or omissions in the performance or non-performance of this Agreement.

8.2 The provisions of this Section shall survive termination of this Agreement.

9. **Notices/Authorized Representatives.**

9.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by private postal service or by registered or certified mail with postage prepaid return receipt requested, addressed to the parties (or their successors) at the following addresses.
10. **Governing Law.**

10.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, Upper Keys Division of the Circuit Court or if in Federal Court, the Southern District of Florida.

11. **Entire Agreement/Modification/Amendment.**

11.1 This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

11.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this Agreement.

12. **Ownership and Access to Records and Audits.**

12.1 The Consultant shall comply with the applicable provisions of Chapter 119, Florida Statutes.

12.2 The Village may cancel this Agreement for refusal by the Consultant to allow access by the Village Manager or his designee to any records pertaining to Services performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

13. **Non-assignability.**

13.1 This Agreement shall not be assignable by the Consultant. Although this agreement is with the Consultant, the parties agree that the Village is relying upon the apparent qualifications and personal expertise of James Davenport, Skip Bafalis and Nancy Prowitt and that Mr. Davenport, Mr. Bafalis and Ms. Prowitt shall be designated by the Consultant to perform
the Services under this Agreement. In the event that Mr. Davenport, Mr. Bafalis and Ms. Prowitt can no longer perform the Services under this Agreement, this Agreement shall automatically terminate. This Agreement shall not be subject to assignment by the Consultant without written permission of the Village Council.

14. **Severability.**

14.1 If any term or provision of this Agreement, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining terms and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

15. **Independent Contractor.**

15.1 The Consultant and its employees, volunteers and agents shall be and remain independent contractors and not agents or employees of the Village with respect to all of the acts and Services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

15.2 The Consultant shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with Consultant.

16. **Conflict of Interest.**

16.1 The Consultant shall not be prohibited from representing or providing the like services to other persons and entities other than the Village, so long as the Consultant shall avoid any representation or relation which would create an adversarial position or conflict of interest, as first determined by the Village Attorney and Village Council.

16.2 The Consultant shall not take on any client or matter that would jeopardize the Consultant’s ability to devote the time, resources, and efforts necessary to fulfill its obligations to the Village.

16.3 The Consultant has acknowledged and disclosed current clients located in Monroe County. The Consultant shall not represent any other local government, non-profit or for-profit organization located in Monroe County, Florida without the prior knowledge and authorization of the Village Council.
17. **Compliance with Laws.**

17.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Services.

18. **Waiver**

18.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement, shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

19. **Survival of Provisions**

19.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

20. **Prohibition Of Contingency Fees.**

20.1 The Consultant warrants that it has not employed or retained any company or person(s), other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

21. **Counterparts**

21.1 This Agreement may be executed in several counterparts, each of which shall be signed by each party and be deemed an original and such counterparts shall constitute one and the same instrument.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The Village, signing by and through its Village Manager, attested to by its Village Clerk, and by Consultant by and through its principal.

Attest: Debra Eastman, Village Clerk

ISLAMORADA, VILLAGE OF ISLANDS

By: Edward Koconis, Village Manager

Date: 7-3-12

ALCALDE & FAY

By: James Davenport, Partner

Date: 6/11/12

APPROVED AS TO FORM AND LEGALITY FOR THE USE AND BENEFIT OF ISLAMORADA, VILLAGE OF ISLANDS ONLY

VILLAGE ATTORNEY