

PROFESSIONAL SERVICES CONTRACT BETWEEN

STATE OF ALASKA  
ALASKA STATE LEGISLATURE  
LEGISLATIVE BUDGET & AUDIT COMMITTEE  
120 4<sup>th</sup> Street, State Capitol, Room 3  
Juneau, AK 99801

AND

ENALYTICA, INC.  
1875 Connecticut Ave., NW, 10<sup>th</sup> Floor  
Washington, DC 20009

**\*\*Contract Amount – Not to Exceed \$400,000.00\*\*  
(amount includes travel and all other expenses)**

The parties to this Contract are the State of Alaska, Alaska State Legislature, Legislative Budget & Audit Committee, whose address is 120 4<sup>th</sup> Street, State Capitol, Room 3, Juneau, AK 99801-1182, (hereinafter referred to as the "Committee"), and Enalytica, Inc., whose address is 1875 Connecticut Ave. N.W., 10<sup>th</sup> Floor, Washington, D.C. 20009, (hereinafter referred to as the "Consultant.")

THE PURPOSE OF THIS CONTRACT is to provide the committee with professional fiscal analysis and consulting services as described below.

**IT IS THEREFORE MUTUALLY AGREED THAT:**

**CLAUSE I – STATEMENT OF SCOPE OF WORK**

- (A) The Consultant shall advise the legislature on matters relating to oil and gas including, but not limited to, reviewing fiscal terms, the implications of various scenarios relating to oil and gas commercialization, and partner participation in the AK LNG project established under SB138 (2014). The Consultant shall also continue to review and comment on agreements negotiated by the state under the authorities provided in SB138, including, but not limited to, forms of state participation in the project, transportation options and costs, and oil and gas fiscal systems to determine how the state can best ensure its share of value from the LNG project, while ensuring the project remains as economically competitive as possible. The Consultant shall testify in committee hearings, respond to requests for analysis through modeling and development of various scenarios, and attend legislative, administration, and industry meetings at the request of the Project Director.

- (B) The Consultant may not perform any work under this Contract without the prior written approval of the Committee Chair.
- (C) The Consultant may only use a key person when performing the work under the Contract, unless the Committee and the Consultant agree that the Consultant may use other persons to perform the work and agree on the fees that the Committee will pay the Consultant for the work of the persons who are not the key persons; in this Agreement, "key person" means Nikolaos Tsafos or Janak Mayer.

## **CLAUSE II – PERIOD AND DATES OF PERFORMANCE**

- (A) The period of performance under this Contract shall be from February 1, 2016 through January 31, 2017, unless terminated earlier as provided herein, or extended by mutual agreement of the parties. All reports and analysis and any necessary reviews and other summary writing required shall be completed and delivered to the Committee Chair by January 31, 2017, unless otherwise directed by the Project Director or Committee Chair.
- (B) This Contract may be terminated by either party upon written notice to the other. If this Contract is terminated and the termination is not based on a breach by the Consultant, the Committee shall compensate the Consultant, as described below in Clause III (B), for services provided under the terms of this Contract up to the date the termination notice is delivered. Upon termination, the Consultant shall provide a copy of all documents, reports, material, and other items required to be delivered to the Project Director by Clause XIV (Ownership and Reuse of Documents) of this Contract as of the day of termination.

## **CLAUSE III – COMPENSATION**

- (A) The Consultant shall perform the work specified in this Contract, including providing all labor, materials, and equipment required to complete the work, for a total contract price that is calculated under this Clause and that may not exceed \$400,000.00, including travel and all other expenses.
- (B) Beginning February 1, 2016, the Consultant shall be paid each calendar month a retainer of \$20,000. This retainer shall provide the legislature up to ten calendar days of services by a key person per calendar month of the services, as described in Clause I (Statement of Scope of Work) of this Contract. Days worked by both key persons shall be counted separately. Subject to the immediately following sentence, for each calendar day of services provided by a key person in excess of the ten calendar days during the calendar month, the Committee shall pay the Consultant \$3,000 (the "Daily Rate") for each additional day of work by a key person, except that for each day of travel by a key person to or from Alaska for legislative meetings, the Committee will pay the Consultant \$1,500 for each key person instead of \$3,000. If, during a calendar month, services by a key person total less than ten calendar days, the difference between the actual days of

services and ten days shall be rolled forward to the immediately subsequent two months without reduction of the 10 days available for each of the two subsequent months. If rolled forward days are not used in the two subsequent months, they expire. Days rolled forward shall be used in the order they are accrued, oldest first.

- (C) The Consultant shall submit monthly billings for the work requested. All billings must be approved by the Committee Chair or the Project Director prior to payment.
- (D) The Consultant will be required to submit receipts to support expenses for transportation and accommodations related to performing work under the terms of this contract. Subject to approval by the Project Director, the Consultant will be reimbursed for reasonable transportation and accommodation expenses supported by a receipt and will be reimbursed for meals based on the federal per diem rate.
- (E) Total payments under this Contract, including reimbursement payments under (D) of this Clause III (Compensation), may not exceed \$400,000.

#### **CLAUSE IV – EXPENSES AND DUPLICATION**

- (A) Except as may be otherwise provided by Clause III, the office space, equipment, supplies, clerical support and other expenses that are necessary for the Consultant to carry out the Consultant's obligations under this Contract shall be supplied and paid for by the Consultant at no cost to the Committee.
- (B) Duplicates of any material or other item produced under this Contract may be produced by the Committee; the office space, equipment, supplies, clerical support and other expenses required for the duplication shall be supplied by the Committee.

#### **CLAUSE V – ASSIGNMENT OR TRANSFER**

Assignment or transfer of the contract entered into is subject to Sec. 160 of the Procurement Procedures of the Alaska State Legislature. The Consultant may subcontract work under this Contract, with written prior approval of the Project Director.

#### **CLAUSE VI – WORKERS' COMPENSATION**

During the life of this contract, the Consultant shall, in accordance with AS 23.30.045(d), provide and maintain workers' compensation insurance. The Consultant shall require any subcontractor to provide and maintain workers' compensation insurance for the subcontractor's employees. Consultant shall provide the Committee, upon request, with written proof of the coverage required by this clause.

## **CLAUSE VII – FEDERAL AND STATE LAWS**

In addition to the other requirements of this contract, the Consultant must comply with all applicable Federal and State labor, wage/hour, safety and other laws which have a bearing on the contract, and must have all licenses and permits required by the Federal government, State and/or municipality for performance of the work covered by this contract, including, but not limited to, a valid Alaska business license and any necessary applicable professional licenses. The Consultant must pay all fees associated with the licenses and permits required for performance of the contract. The Consultant shall pay all Federal, State, and local taxes incurred by the Consultant in the performance of the contract. The Consultant's certification that taxes have been paid may be verified before final payment by the Committee.

## **CLAUSE VIII – HUMAN TRAFFICKING**

By the Consultant's signature on this contract, the Consultant certifies that the Consultant is not headquartered in a country recognized as Tier 3 in the most recent United States Department of State's Trafficking in Persons Report, and that, if this changes, the Consultant will submit a certified copy of the Consultant's policy against human trafficking to the Committee.

The most recent United States Department of State's Trafficking in Persons Report can be found at the following website: <http://www.state.gov/j/tip/rls/tiprpt>.

## **CLAUSE IX – CONTRACT CONTROVERSIES AND VENUE**

To make a claim under this Contract, the Consultant shall provide notice to the procurement officer that the Consultant intends to file a claim under Legislative Procurement Procedures secs. 350-370; the notice shall be provided within 10 days of the discovery of the claim or 10 days of the termination of the Contract, whichever is sooner. If the claim is not resolved, the Consultant shall file the complete and certified claim with the procurement officer in accordance with Legislative Procurement Procedure secs. 350-370 within 90 days of the discovery of the claim or 90 days after the termination of the Contract, whichever is sooner.

In the event that the parties to the Contract find it necessary to litigate the terms of the Contract, venue shall be State of Alaska, First Judicial District, at Juneau, and the Contract shall be interpreted according to the laws of Alaska.

## **CLAUSE X – BINDING ON SUCCESSORS**

Subject to Clause V (Assignment or Transfer) of this Contract, this Contract and all the covenants, provisions, and conditions contained in the Contract shall inure to the benefit of and be binding upon the successors and assigns of the Consultant and the Committee.

## **CLAUSE XI – INDEMNIFICATION**

The Consultant shall indemnify, hold harmless, and defend the Committee, and the Committee's officers, agents, and employees from liability for any claim of a third party, including, but not limited to, any damages, costs, and attorney fees arising from the claim, to the extent such third party claim arises from the Consultant's negligence or intentional misconduct in the performance of Consultant's obligations under this Contract.

## **CLAUSE XII – COVERAGE UNDER THE ETHICS LAW**

The Consultant is subject to the provisions of AS 24.60 (Legislative Ethics) as a legislative employee unless excluded from the definition of "legislative employee" under AS 24.60.990(a)(11). Select Committee on Legislative Ethics Advisory Opinion 99-01 concludes that "any contractors who are paid through the state payroll system, contractors (or those designated within a contracting firm or company) with the Ethics Committee and those services or professional services contractors with legislative contracts over \$5,000, who will incur more than incidental use of state resources or who either contract for legislative policy related services or who are designated to represent the Legislature in a policy-related capacity, fall within the legislative employee definition and are therefore subject to the legislative ethics code."

AS 24.60 (Legislative Ethics) requires Consultants subject to the law to undergo specified ethics training. The Consultant shall participate in the required training and submit the required certificate of completion to the Project Director within thirty (30) days after the execution of this Contract. Training modules will be made available to the Consultant through a web-based portal and all arrangements for access to such will be made through the Project Director.

## **CLAUSE XIII – RECORDS; AUDIT**

In addition to any other records required by this Contract, the Consultant shall accurately maintain detailed time records that state the date of the work, break down the time in quarters of an hour, describe in detail the work done during the quarter of an hour, and identify which individual did the work. The Consultant shall also keep any other records that are required by the Project Director. The records required by this Contract are subject to inspection by the Committee or the Project Director at all reasonable times.

## **CLAUSE XIV – OWNERSHIP AND REUSE OF DOCUMENTS**

- (A) All previously nonexistent documents, reports, material, and other items generated solely and directly as a consequence of work done under this Contract are the property of the Committee. To the extent the Consultant has any interest in the copyright for these items under the copyright laws of the United States, the Consultant transfers by this Contract any and all interest the Consultant has in the copyright for these items to the Committee, and the Committee will be the owner of the copyright for these items. Upon completion of the work or termination of this

Contract, the items shall be delivered to the Project Director. Notwithstanding the above provisions, this Clause XIV(A) does not give the Committee proprietary rights to financial models, databases or software developed under the Contract, nor will it prevent the Consultant from making publicly available work performed under this Contract where such work has already been made publicly available by the Committee. Notwithstanding the previous sentence, the Committee may use these items in its present or future legislative work.

- (B) The Consultant warrants to the Committee that all software, information, data, or intellectual property used in the course of performing this Contract is being used by the Consultant with the authority, license, or permission of the owner.

#### **CLAUSE XV – PROJECT DIRECTOR**

The Project Director is the person appointed by the Committee Chair. The Project Director shall be Rena Delbridge. The Project Director is authorized to oversee and direct the activities of the Consultant under this Contract. The Committee Chair may replace the Project Director at any time by providing notice to the Consultant.

#### **CLAUSE XVI – AUTHORIZATION; CERTIFICATION**

- (A) The Legislative Procurement Procedure sec. 040 exemption justification and execution of this Contract were authorized by a majority of the members of the Committee at a meeting on January 29, 2016. The sec. 040 exemption justification is attached as Exhibit A to this Contract.
- (B) Execution of this Contract by the Legislative Auditor hereby constitutes a certification that funds are available in an appropriation to pay for work performed under this Contract through June 30, 2016. Availability of funds to pay for work performed from July 1, 2016 through January 31, 2017 is contingent upon appropriation of funds for the next fiscal year. If, in the judgment of the Legislative Auditor, sufficient funds are not appropriated for the appropriate fiscal year, the Contract will be terminated under Clause II (B), or, if the Committee and Consultant agree in writing to amend the contract, the Contract may be amended in writing by the parties.

#### **CLAUSE XVII – MODIFICATION AND PREVIOUS AGREEMENTS**

This Contract contains all terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this Contract shall be

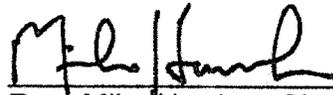
deemed to exist or to bind either of the parties to this Contract. This Contract may not be modified unless in writing and signed by the parties to this Contract.

IN WITNESS WHEREOF, the parties have executed this Contract on the dates indicated below:

CONSULTANT:

  
\_\_\_\_\_  
Enalytica, Inc. 2/2/16  
Date  
Nikolaos Tsafos, President  
1875 Connecticut Ave., NW, 10<sup>th</sup> Floor  
Washington, DC 20009  
Alaska Business License # 1026100

COMMITTEE:

  
\_\_\_\_\_  
Rep. Mike Hawker, Chair 2.1.16  
Date  
Legislative Budget & Audit Committee  
Procurement Officer

ACCEPTED:

  
\_\_\_\_\_  
Rena Delbridge 2-1-16  
Date  
Project Director

CERTIFYING AUTHORITY:

  
\_\_\_\_\_  
Kris Curtis 2/2/16  
Date  
Legislative Auditor

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Emily Nann 2/1/16  
Date  
Legal Counsel

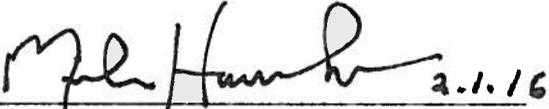
## Exhibit A

### Professional Services Contract between Legislative Budget & Audit Committee and Enalytica, Inc.

#### Written Justification for Section 040 (a) (1) Exemption

Under Section 040 (a) (1) of the Legislative Procurement Procedures, it is not practicable to award this contract by competitive sealed bidding, competitive sealed proposals, or other competitive method because the current contractor, Enalytica, Inc.,<sup>1</sup> is uniquely capable of providing the necessary services due to their immediate ability to provide sufficient and appropriate corporate resources, their particular professional knowledge and skills with regard to worldwide and Alaska oil and gas fiscal systems, their open and transparent fiscal modeling paradigm, and their ability to deliver the results of necessary fiscal modeling and provide senior personnel for presentations as needed by legislative committees during the coming session. Further, the contract provides continuity in subject matter expertise and familiarity with the oil and gas fiscal issues and legislation now before the Legislature. In addition, it would be very expensive, time consuming, and impractical for another contractor to familiarize itself with the prior work in order to perform this contract. It is necessary to act immediately to secure these commitments and assure the availability of these professional resources which are essential to responsible conduct of the legislature's deliberative process in the 2016 session.

Accordingly, it is in the best interests of the legislature that the Legislative Budget and Audit Committee (LBA) award a contract to Enalytica, Inc., on these matters without competitive solicitation.

  
\_\_\_\_\_  
Representative Mike Hawker                      Date  
Chair, Legislative Budget and Audit Committee  
Procurement Officer

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<sup>1</sup> This contract continues work identified in the original contracts with individuals Nikos Tsafos and Janak Mayer, and the ensuing Novation Agreement to Enalytica, Inc.