

**CONTRACT FOR**

\_\_\_\_\_  
\_\_\_\_\_  
This Contract is made as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between Palm Beach County, a Political Subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as the COUNTY, and \_\_\_\_\_, a \_\_\_\_\_ authorized to do business in the State of Florida, hereinafter referred to as the ENTITY (including but not limited to consultant, vendor, contractor, sub-recipient), whose Federal I.D. is \_\_\_\_\_.

In consideration of the mutual promises contained herein, the COUNTY and the ENTITY agree as follows:

**ARTICLE 1 - SERVICES**

The ENTITY'S responsibility under this Contract is to provide \_\_\_\_\_, as more specifically set forth in the Scope of Work detailed in Exhibit "A".

The COUNTY'S representative/liaison during the performance of this Contract shall be \_\_\_\_\_, telephone no. \_\_\_\_\_.

The ENTITY'S representative/liaison during the performance of this Contract shall be \_\_\_\_\_, telephone no. \_\_\_\_\_.

**ARTICLE 2 - SCHEDULE**

The ENTITY shall commence services on \_\_\_\_\_ and complete all services by \_\_\_\_\_. The Parties agree that the ENTITY will be entitled to payment for services rendered beginning on \_\_\_\_\_, notwithstanding the date the contract is executed by the Board of County Commissioners.

Reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

**ARTICLE 3 - PAYMENTS TO ENTITY**

A. The total amount to be paid by the COUNTY under this Contract for all services and materials including, if applicable, "out of pocket" expenses (specified in paragraph C below) shall not exceed a total contract amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_). The ENTITY shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. The ENTITY will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in

Exhibit "B" for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.

- B. Invoices received from the ENTITY pursuant to this Contract will be reviewed and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. "Out-of-pocket" expenses will be reimbursed up to an amount not to exceed \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), and in accordance with the list of the types and amounts of expenditures eligible for reimbursement as set forth in Exhibit "B". All requests for payment of "out-of-pocket" expenses eligible for reimbursement under the terms of this Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Scope of Work described in this Contract. Any travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract will be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.
- D. Final Invoice: In order for both parties herein to close their books and records, the ENTITY will clearly state "final invoice" on the ENTITY'S final/last billing to the COUNTY. This shall constitute ENTITY'S certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the ENTITY.
- E. In order to do business with Palm Beach County, ENTITY'S are required to create a Vendor Registration Account OR activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service (VSS) system, which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. If ENTITY intends to use sub-contractors, ENTITY must also ensure that all sub-contractors are registered as subcontractors in VSS. All subcontractor agreements must include a contractual provision requiring that the sub-contractor register in VSS. COUNTY will not finalize a contract award until the COUNTY has verified that the ENTITY and all of its sub-contractors are registered in VSS.

**ARTICLE 4 - TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of this Contract by the ENTITY shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the ENTITY'S most favored customer for the same or substantially similar service.

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The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside ENTITY'S. The COUNTY shall exercise its rights under this Article 4 within three (3) years following final payment.

#### **ARTICLE 5 - TERMINATION**

This Contract may be terminated by the ENTITY upon sixty (60) days' prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of this Contract through no fault of the ENTITY. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days written notice to the ENTITY or without cause upon ten (10) business days written notice to the ENTITY. Unless the ENTITY is in breach of this Contract, the ENTITY shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the ENTITY shall:

- A. Stop work on the date and to the extent specified.
- B. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
- C. Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- D. Continue and complete all parts of the work that have not been terminated.

#### **ARTICLE 6 - PERSONNEL**

The ENTITY represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the services required herein under shall be performed by the ENTITY or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

Any changes or substitutions in the ENTITY'S key personnel, as may be listed in Exhibit "A", must be made known to the COUNTY'S representative and written approval must be granted by the COUNTY's representative before said change or substitution can become effective.

The ENTITY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field.

All of the ENTITY'S personnel (and all Subcontractors), while on County premises, will comply with all COUNTY requirements governing conduct, safety and security.

## **ARTICLE 7 - SUBCONTRACTING**

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract. The ENTITY is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If a subcontractor fails to perform or make progress, as required by this Contract, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the ENTITY shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

**The following language only applies if the EBO Ordinance applies to the Contract:** It is the policy of the Board of County Commissioners of Palm Beach County, Florida (the Board) that all segments of its business population including, but not limited to, small, local, minority and women owned businesses, have an equitable opportunity to participate in the County's procurement process, prime contract and subcontract opportunities. In pursuance of that policy, the Board adopted an Equal Business Opportunity (EBO) Ordinance which is codified in sections 2-80.20 through 2-80.30 (as may be amended) of the Palm Beach County Code. The EBO Ordinance sets forth the County's requirements for the EBO program, and is incorporated herein and made part of this Contract. Non-compliance with the EBO Ordinance must be corrected within fifteen (15) days of notice of non-compliance. Failure to comply with the EBO Ordinance may result in any of the following penalties:

- Suspension of the Contract;
- Withholding of funds;
- Termination of the Contract based upon a material breach of contract pertaining to the EBO Program compliance;
- Suspension or debarment of ENTITY from eligibility for providing goods or services to the County for a period not to exceed three (3) years; and
- Liquidated damages equal to the difference in dollar value of small, minority, women owned business enterprise (S/M/WBE) participation as committed to in the Contract, and the dollar value of S/M/WBE participation as actually achieved.

The ENTITY must adhere to the Affirmative Procurement Initiatives (APIs) as incorporated herein as **Attachment 1**, including the County's Request for Proposals (RFP) and the specifications set forth in ENTITY'S response to the RFP, which are both incorporated herein by reference. Failure to comply with this article is a material breach of this Contract. **(NOTE: If entity has agreed to provide an API percentage that is higher than what was required by the County's Goal Setting Committee, then you must also state what the entity has agreed to on the API page, Attachment 1.)**

ENTITY shall report all subcontractor payment information on EBO forms 3a and 4, or as otherwise required by the County's Office of EBO, and, when the EBO portal is available, input subcontractor payment information directly into the County's contract management system.

ENTITY shall pay subcontractors undisputed amounts within ten (10) days after County pays the ENTITY. In the event of a disputed invoice, the ENTITY shall send the subcontractor(s) and County a written notice of the dispute within five (5) days after receipt of the subject invoice.

ENTITY must notify the Office of EBO of changes in S/M/WBE utilization and get prior approval for any substitutions.

The ENTITY agrees to pay its subconsultants in compliance with the Florida Prompt Payment Act. In the event ENTITY fails to comply with payments(s) to its subconsultants in accordance with the Florida Prompt Payment Act, ENTITY shall be subject to any and all penalties and sanctions available under the terms of the EBO Program, its contract with the County, or any other applicable law.

The Office of EBO has the right to review ENTITY'S records and interview subcontractors.

#### **ARTICLE 8 - FEDERAL AND STATE TAX**

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the ENTITY. The ENTITY shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the ENTITY authorized to use the COUNTY'S Tax Exemption Number in securing such materials.

The ENTITY shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this contract.

#### **ARTICLE 9 - AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this contract for subsequent fiscal years are contingent upon annual appropriations for its purpose by the Board of County Commissioners.

#### **ARTICLE 10 - INSURANCE**

ENTITY shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Contract, insurance coverages and limits (including endorsements), as described herein. ENTITY shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by ENTITY are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by ENTITY under the contract.

A. **Commercial General Liability** ENTITY shall maintain Commercial General Liability at

a limit of liability not less than **\$500,000** combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

**Additional Insured Endorsement:** The Commercial General Liability policy shall be endorsed to include, “Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents” as an Additional Insured. A copy of the endorsement shall be provided to COUNTY upon request.

- B. **Workers’ Compensation Insurance & Employers Liability** ENTITY shall maintain Workers’ Compensation & Employer’s Liability in accordance with Chapter 440 of the Florida Statutes.
- C. **Professional Liability** ENTITY shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, COUNTY reserves the right, but not the obligation, to review and request a copy of ENTITY’s most recent annual report or audited financial statement. For policies written on a “claims-made” basis, ENTITY warrants the Retroactive Date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this Contract, ENTITY shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the contract term. The requirement to purchase a SERP shall not relieve the ENTITY of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an “occurrence” or “claims-made” form. If coverage is provided on a “claims-made” form the Certificate of Insurance must also clearly indicate the “retroactive date” of coverage.
- D. **Waiver of Subrogation** Except where prohibited by law, ENTITY hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy except Professional Liability. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then ENTITY shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should ENTITY enter into such an agreement on a pre-loss basis.
- E. **Certificate(s) of Insurance** On execution of this contract, renewal, within forty-eight (48) hours of a request by COUNTY, and upon expiration of any of the required coverage throughout the term of this Agreement, the ENTITY shall deliver to the COUNTY or COUNTY’s designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this Contract have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners

And may be addressed:

c/o (Department)

*(Using the address as indicated in the "Notices" article or another address on agreement of the parties.)*

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- F. **Right to Revise or Reject** COUNTY, by and through its Risk Management Department in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject, or accept any required policies of insurance, including limits, coverage, or endorsements.

**ARTICLE 11 - INDEMNIFICATION**

ENTITY shall protect, defend, reimburse, indemnify and hold COUNTY, its agents, employees and elected officers harmless from and against all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of this Contract or due to the acts or omissions of ENTITY.

This article shall survive termination or expiration of this Contract.

**The following indemnity language applies only to design professional contracts that are subject to section 725.08, Florida Statutes:**

The ENTITY shall indemnify and hold harmless the County, and its officers and employees, from liabilities, damages, losses, and costs including, but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of the ENTITY, and other persons employed or utilized by the ENTITY, in the performance of this Contract.

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract, each party shall bear its own attorney's fees, court costs and all expenses (including taxes and, without limitation, all such fees, costs, and expenses incident to appeals) incurred in that action or proceeding.

This section shall survive termination or expiration of this Contract.

**The following indemnity language applies only to contracts with another government entity:**

Each party shall be liable for its own actions and negligence and, to the extent permitted by law, shall indemnify, defend and hold harmless the County against any actions, claims or damages arising out of the negligence of

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in connection with this Contract. The foregoing indemnification shall not constitute a waiver of sovereign immunity beyond the limits set forth in F.S. 768.28, nor shall the same be construed to constitute agreement by either party to indemnify the other party for such other party's negligent, willful or intentional acts or omissions.

This section shall survive termination or expiration of this Contract.

#### **ARTICLE 12 - SUCCESSORS AND ASSIGNS; ASSIGNMENT**

The COUNTY and the ENTITY each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the ENTITY shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other.

#### **ARTICLE 13 – LAW AND VENUE; REMEDIES; NO THIRD PARTY BENEFICIARIES**

This Contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Contract will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

No provision of this Contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Contract, including but not limited to any citizen or employees of the COUNTY and/or ENTITY.

#### **ARTICLE 14 - CONFLICT OF INTEREST**

The ENTITY represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. The ENTITY further represents that no person having any such conflict of interest shall be employed for said performance of services.

The ENTITY shall promptly notify the COUNTY's representative, in writing, by certified mail, of all potential conflicts of interest of any prospective business association, interest or other circumstance which may influence or appear to influence the ENTITY'S judgement or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the ENTITY may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the ENTITY. The COUNTY agrees to notify the ENTITY of its opinion by certified mail within thirty



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(30) days of receipt of notification by the ENTITY. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the ENTITY, the COUNTY shall so state in the notification and the ENTITY shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the ENTITY under the terms of this Contract.

#### **ARTICLE 15 - EXCUSABLE DELAYS**

The ENTITY shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the ENTITY or its subcontractors and without their fault or negligence. Such causes include, but are not limited to, acts of God, force majeure, natural or public health emergencies, labor disputes, freight embargoes, and abnormally severe and unusual weather conditions.

Upon the ENTITY'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the ENTITY'S failure to perform was without it or its subcontractors fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly, subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

#### **ARTICLE 16 - ARREARS**

The ENTITY shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The ENTITY further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

#### **ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The ENTITY shall deliver to the COUNTY's representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the ENTITY and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under this Contract for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Contract and the consummation of the transactions contemplated hereby.

Notwithstanding any other provision in this Contract, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of the Inspector General, Palm Beach County Code, Sections 2-421 - 2-440, as amended.

**ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP**

The ENTITY is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the ENTITY'S sole direction, supervision, and control. The ENTITY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the ENTITY'S relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The ENTITY does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

**ARTICLE 19 - CONTINGENT FEES**

The ENTITY warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the ENTITY to solicit or secure this Contract 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 the ENTITY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

**ARTICLE 20 - ACCESS AND AUDITS; OFFICE OF THE INSPECTOR GENERAL**

The ENTITY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the ENTITY'S place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421 - 2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed County contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the ENTITY, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421 - 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**ARTICLE 21 - NONDISCRIMINATION**

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The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the ENTITY warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

As a condition of entering into this Contract, the ENTITY represents and warrants that it will comply with the COUNTY'S Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the ENTITY shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the ENTITY retaliate against any person for reporting instances of such discrimination. The ENTITY shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The ENTITY understands and agrees that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. ENTITY shall include this language in its subcontracts.

#### **ARTICLE 22 - AUTHORITY TO PRACTICE**

The ENTITY hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY's representative upon request.

#### **ARTICLE 23 - SEVERABILITY**

If any term or provision of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Contract shall be deemed valid and enforceable to the extent permitted by law.

#### **ARTICLE 24 - PUBLIC ENTITY CRIMES**

As provided in F.S. 287.132-133, by entering into this contract or performing any work in furtherance hereof, the ENTITY certifies that it, its affiliates, suppliers, subcontractors and ENTITY'S who will perform hereunder, have not been placed on the convicted vendor list

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maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

**ARTICLE 25 - MODIFICATIONS OF WORK**

The COUNTY reserves the right to make changes in Scope of Work, including alterations, reductions therein or additions thereto. Upon receipt by the ENTITY of the COUNTY'S notification of a contemplated change, the ENTITY shall, in writing: (1) provide a detailed estimate for the increase or decrease in cost due to the contemplated change, (2) notify the COUNTY of any estimated change in the completion date, and (3) advise the COUNTY if the contemplated change shall affect the ENTITY'S ability to meet the completion dates or schedules of this Contract.

If the COUNTY so instructs in writing, the ENTITY shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY'S decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the ENTITY shall not commence work on any such change until such written amendment is signed by the ENTITY and approved and executed on behalf of Palm Beach County.

**ARTICLE 26 - NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance. If sent to the COUNTY, notices shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

With copy to:

Palm Beach County Attorney's Office  
301 North Olive Ave.  
West Palm Beach, Florida 33401

If sent to the ENTITY, notices shall be addressed to:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**ARTICLE 27 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the ENTITY agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None

of the provisions, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 25- Modifications of Work.

### **ARTICLE 28 - CRIMINAL HISTORY RECORDS CHECK**

The ENTITY, ENTITY'S employees, subcontractors of ENTITY and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolution R-2003-1274, as amended. The ENTITY is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the ENTITY acknowledges that its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolutions as amended. COUNTY staff representing the COUNTY department will contact the ENTITY(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The ENTITY shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the ENTITY or its subcontractor(s) terminates an employee who has been issued a badge, the ENTITY must notify the COUNTY within two (2) hours. At the time of termination, the ENTITY shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend the ENTITY if the ENTITY 1) does not comply with the requirements of County Code Section 2-371 - 2-377, as amended; 2) does not contact the COUNTY regarding a terminated ENTITY employee or subcontractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

### **ARTICLE 29 - REGULATIONS; LICENSING REQUIREMENTS**

The ENTITY shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. ENTITY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered.

### **ARTICLE 30 - SCRUTINIZED COMPANIES**

- A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the ENTITY certifies that it, its affiliates, suppliers, subcontractors and ENTITY'S who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725.

- B. **When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the ENTITY certifies that it, its affiliates, suppliers, subcontractors and ENTITY'S who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

If the County determines, using credible information available to the public, that a false certification has been submitted by ENTITY, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

### **ARTICLE 31 - PUBLIC RECORDS**

Notwithstanding anything contained herein, as provided under Section 119.0701, F.S., if the ENTITY: (i) provides a service; and (ii) acts on behalf of the County as provided under Section 119.011(2) F.S., the ENTITY shall comply with the requirements of Section 119.0701, Florida Statutes, as it may be amended from time to time. The ENTITY is specifically required to:

- A. Keep and maintain public records required by the County to perform services as provided under this Contract.
- B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The ENTITY further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the ENTITY does not transfer the records to the public agency.
- D. Upon completion of the Contract the ENTITY shall transfer, at no cost to the County, all public records in possession of the ENTITY unless notified by County's representative/liaison, on behalf of the County's Custodian of Public Records, to keep and maintain public records required by the County to perform the service. If the ENTITY transfers all public records to the County upon completion of the Contract, the ENTITY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the ENTITY keeps and maintains public records upon completion of the Contract, the

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ENTITY shall meet all applicable requirements for retaining public records. All records stored electronically by the ENTITY must be provided to County, upon request of the County's Custodian of Public Records, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the ENTITY to comply with the requirements of this article shall be a material breach of this Contract. County shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. ENTITY acknowledges that it has familiarized itself with the requirements of Chapter 119, F.S., and other requirements of state law applicable to public records not specifically set forth herein.

**IF THE ENTITY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ENTITY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT [RECORDSREQUEST@PBCGOV.ORG](mailto:RECORDSREQUEST@PBCGOV.ORG) OR BY TELEPHONE AT 561-355-6680.**

#### **ARTICLE 32 - COUNTERPARTS**

This Contract, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same Contract. The COUNTY may execute the Contract through electronic or manual means. ENTITY shall execute by manual means only, unless the COUNTY provides otherwise.

#### **ARTICLE 33 - E-VERIFY - EMPLOYMENT ELIGIBILITY**

ENTITY warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and beginning uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of ENTITY's subconsultants performing the duties and obligations of this CONTRACT are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

ENTITY shall obtain from each of its subconsultants an affidavit stating that the subconsultant does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. ENTITY shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this CONTRACT which requires a longer retention period.

COUNTY shall terminate this CONTRACT if it has a good faith belief that ENTITY has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If COUNTY has a good faith belief that ENTITY's subconsultant has knowingly violated section 448.09(1), Florida Statutes, as may be amended, COUNTY shall notify ENTITY to terminate its contract with the

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subconsultant and ENTITY shall immediately terminate its contract with the subconsultant. If COUNTY terminates this CONTRACT pursuant to the above, ENTITY shall be barred from being awarded a future contract by COUNTY for a period of one (1) year from the date on which this CONTRACT was terminated. In the event of such contract termination, ENTITY shall also be liable for any additional costs incurred by COUNTY as a result of the termination.

**ARTICLE 34 - DISCLOSURE OF FOREIGN GIFTS AND CONTRACTS WITH FOREIGN COUNTRIES OF CONCERN.**

Pursuant to F.S. 286.101, as may be amended, by entering into this Contract or performing any work in furtherance thereof, the ENTITY certifies that it has disclosed any current or prior interest of, any contract with, or any grant or gift received from a foreign country of concern where such interest, contract, or grant or gift has a value of \$50,000 or more and such interest existed at any time or such contract or grant or gift was received or in force at any time during the previous five (5) years.

**ARTICLE 35 – HUMAN TRAFFICKING AFFIDAVIT**

ENTITY warrants and represents that it does not use coercion for labor or services as defined in section 787.06, Florida Statutes. ENTITY has executed **Exhibit C**, Nongovernmental Entity Human Trafficking Affidavit, which is attached hereto and incorporated herein by reference.

*(Remainder of this page intentionally left blank)*



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**IN WITNESS WHEREOF**, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and ENTITY has hereunto set its hand the day and year above written.

**PALM BEACH COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS**

**By:** \_\_\_\_\_  
**County Administrator or Designee**

**APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY**

**By:** \_\_\_\_\_  
**Assistant County Attorney**

**APPROVED AS TO TERMS  
AND CONDITIONS**

**By:** \_\_\_\_\_  
**Department or Division Director**

**ENTITY:**

\_\_\_\_\_  
**Company Name**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Typed Name**

\_\_\_\_\_  
**Title**

**WITNESS:**

\_\_\_\_\_  
**Signature**

\_\_\_\_\_  
**Typed Name**

**(corp. seal)**

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**EXHIBIT "A"**

**SCOPE OF WORK**

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**EXHIBIT "B"**

**SCHEDULE OF PAYMENTS**

**NONGOVERNMENTAL ENTITY HUMAN TRAFFICKING AFFIDAVIT  
Section 787.06(13), Florida Statutes**

THIS AFFIDAVIT MUST BE SIGNED AND NOTARIZED

I, the undersigned, am an officer or representative of \_\_\_\_\_  
(ENTITY) and attest that entity does not use coercion for labor or services as defined in section  
787.06, Florida Statutes.

**Under penalty of perjury, I hereby declare and affirm that the above stated facts are true  
and correct.**

\_\_\_\_\_  
(signature of officer or representative)

\_\_\_\_\_  
(printed name and title of officer or representative)

**State of Florida, County of Palm Beach**

Sworn to and subscribed before me by means of  physical presence or  online notarization  
this, \_\_\_\_\_ day of \_\_\_\_\_, by \_\_\_\_\_.

Personally known  OR produced identification .

Type of identification produced \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:  
State of Florida at large

(Notary Seal)