



**AGREEMENT BETWEEN BROWARD COUNTY AND \_\_\_\_\_ FOR  
\_\_\_\_\_ (RFP # \_\_\_\_\_)**

This agreement (“Agreement”) is between Broward County, a political subdivision of the State of Florida (“County”), and \_\_\_\_\_, a \_\_\_\_\_ corporation (“Contractor”) (each a “Party” and collectively referred to as the “Parties”).

**RECITALS**

A. \_\_\_\_\_ [Insert recitals as applicable]

B. \_\_\_\_\_ [Insert recitals as applicable]

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

**ARTICLE 1. DEFINITIONS**

1.1. **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2. **Board** means the Board of County Commissioners of Broward County, Florida.

1.3. **Code** means the Broward County Code of Ordinances.

1.4. **Contract Administrator** means the Director of \_\_\_\_\_, the Assistant Director of \_\_\_\_\_, or such other person designated by the Director of \_\_\_\_\_ in writing.

1.5. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81 of the Code.

1.6. **Notice to Proceed** means a written authorization to proceed with a project, phase, or task, issued by the Contract Administrator.

1.7. **Purchasing Director** means County’s Director of Purchasing.

1.8. **Services** means all work required of Contractor under this Agreement, including without limitation all deliverables, consulting, training, project management, other services specified in the Scope of Services attached as Exhibit A, and any Optional Services procured under this Agreement.

1.9. **Small Business Enterprise** or **SBE** means an entity certified as meeting the applicable requirements of Section 1-81 of the Code.

1.10. **Subcontractor** means an entity or individual, including subconsultants, providing Services to County through Contractor, regardless of tier.

## ARTICLE 2. EXHIBITS

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Payment Schedule</b>
<b>Exhibit C</b>	<b>Minimum Insurance Coverages</b>
<b>Exhibit D</b>	<b>Work Authorization Form</b>
<b>Exhibit [ ]</b>	<b>Prevailing Wage Statement of Compliance</b>
<b>Exhibit [ ]</b>	<b>CBE/SBE Subcontractor Schedule and Letters of Intent</b>
<b>Exhibit [ ]</b>	<b>Certification of Payments to Subcontractors and Suppliers</b>
<b>Exhibit [ ]</b>	<b>Business Associate Agreement</b>
<b>Exhibit [ ]</b>	<b>[Port Everglades/ETS/BCAD] Requirements</b>
<b>Exhibit [ ]</b>	<b>Federally Funded Contracts Requirements</b>

## ARTICLE 3. SCOPE OF SERVICES

3.1. Scope of Services. Contractor shall perform all Services, including, without limitation, the work specified in Exhibit A (the "Scope of Services"). The Scope of Services is a description of Contractor's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion would render performance by Contractor impractical, illogical, or unconscionable.

3.2. Optional Services. If any goods or services under this Agreement, or the quantity thereof, are identified as optional ("Optional Services"), County may select the type, amount, and timing of Optional Services pursuant to a work authorization ("Work Authorization") in substantially the form attached as Exhibit D executed by Contractor and County pursuant to this section. Any Optional Services procured, when combined with the required goods or services under this Agreement, shall not result in a payment obligation exceeding the applicable maximum amount stated in Section 5.1. Notwithstanding anything to the contrary in this Agreement, Work Authorizations shall be executed on behalf of County as follows: (a) the Contract Administrator may execute Work Authorizations for which the total aggregate cost to County is less than \$50,000.00; (b) the Purchasing Director may execute Work Authorizations for which the total aggregate cost to County is within the Purchasing Director's delegated authority; and (c) any Work Authorization above the Purchasing Director's delegated authority requires express approval by the Board. Contractor shall not commence work on any Work Authorization until receipt of a purchase order and issuance of a Notice to Proceed by the Contract Administrator.

## ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1. Term. This Agreement begins on the date it is fully executed by the Parties ("Effective Date") and continues through [REDACTED] ("Initial Term"), unless otherwise terminated

or extended as provided in this Agreement. The Initial Term, Extension Term(s), and any Additional Extension as defined in this article are collectively referred to as the "Term."

4.2. Extensions. County may extend this Agreement for up to      additional one (1) year terms (each an "Extension Term") on the same rates, terms, and conditions stated in this Agreement by sending notice to Contractor at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise any Extension Term(s), and notice of same to Contractor only by electronic mail shall be effective and sufficient.

4.3. Additional Extension. If unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an Extension Term not practicable, or if no Extension Term remains available and expiration of this Agreement would, as determined by the Purchasing Director, result in a gap in Services deemed necessary by County, then the Purchasing Director may extend this Agreement for period(s) not to exceed three (3) months in the aggregate ("Additional Extension") on the same rates, terms, and conditions as existed at the end of the then-current term. The Purchasing Director may exercise the Additional Extension by written notice to Contractor at least thirty (30) days prior to the end of the then-current term stating the duration of the Additional Extension. The Additional Extension must be within the authority of the Purchasing Director or otherwise authorized by the Board.

4.4. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds pursuant to Chapter 129 and, if applicable, Chapter 212, Florida Statutes.

4.5. Time of the Essence. Time is of the essence for Contractor's performance of the duties, obligations, and responsibilities required by this Agreement.

#### **ARTICLE 5. COMPENSATION**

5.1. Maximum Amounts. For all goods and Services provided under this Agreement, County will pay Contractor up to a maximum amount as follows:

Categories	Not-To-Exceed Amount
Goods and Services	\$
Reimbursable Expenses	\$
Optional Services	\$
<b>TOTAL NOT TO EXCEED</b>	<b>\$</b>

Payment shall be made only for Services actually performed and completed pursuant to this Agreement as set forth in Exhibit B (Payment Schedule), which amount shall be accepted by Contractor as full compensation for all such Services. Contractor acknowledges that the amounts set forth in this Agreement are the maximum amounts payable and constitute a limitation upon County's obligation to compensate Contractor for goods and Services. These maximum amounts, however, do not constitute a limitation of any sort upon Contractor's obligation to perform all Services.

5.2. Method of Billing and Payment.

5.2.1. Unless otherwise stated in Exhibit B, Contractor must submit invoices no more often than once monthly, but only after the Services invoiced have been completed. Invoices are due within fifteen (15) days after the end of the month covered by the invoice, except that the final invoice must be received no later than sixty (60) days after expiration or earlier termination of this Agreement. Invoices shall describe the Services performed and, as applicable, the personnel, hours, tasks, or other details as requested by the Contract Administrator. Contractor shall submit a Certification of Payments to Subcontractors and Suppliers (Exhibit \_\_\_ ) with each invoice that includes Services performed by a Subcontractor. The certification shall be accompanied by a copy of the notification sent to each unpaid Subcontractor listed on the form, explaining the good cause why payment has not been made to that Subcontractor.

5.2.2. Invoices shall be in the amounts set forth in Exhibit B for the applicable Services, minus any agreed upon retainage as stated in Exhibit B. Retainage amounts shall only be invoiced upon completion of all Services, unless otherwise stated in Exhibit B.

5.2.3. County shall pay Contractor within thirty (30) days after receipt of Contractor's proper invoice in accordance with the "Broward County Prompt Payment Ordinance," Section 1-51.6 of the Code. To be deemed proper, all invoices must: (a) comply with all applicable requirements, whether set forth in this Agreement or the Code; and (b) be submitted on the then-current County form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of Contractor to comply with a term, condition, or requirement of this Agreement.

5.2.4. Contractor must pay Subcontractors and suppliers within fifteen (15) days after receipt of payment from County for such subcontracted work or supplies. If Contractor withholds an amount as retainage from Subcontractors or suppliers, Contractor shall release such retainage and pay same within fifteen (15) days after receipt of payment of retained amounts from County. Failure to pay a Subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless Contractor demonstrates to Contract Administrator's satisfaction that such failure to pay results from a bona fide dispute with the Subcontractor or supplier and, further, Contractor promptly pays the applicable amount(s) to the Subcontractor or supplier upon resolution of the dispute. Contractor shall include requirements substantially similar to those set forth in this subsection in its contracts with Subcontractors and suppliers.

5.3. Reimbursable Expenses. Contractor shall not be reimbursed for any expenses it incurs unless expressly provided for in this Agreement. Reimbursement of any travel costs or travel-related expenses permitted under this Agreement shall be limited to those permitted under Section 112.061, Florida Statutes, except to the extent that Exhibit B expressly provides otherwise. County shall not be liable for any expenses that exceed those allowed by Section 112.061 or that were not approved in writing in advance by the Contract Administrator.

5.4. Subcontractors. Contractor shall invoice Subcontractor fees only in the actual amount paid by Contractor, without markup or other adjustment.

5.5. Withholding by County; Overcharges. Notwithstanding any provision of this Agreement to the contrary, County may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) Contractor's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by County. In the event of an overcharge of any nature by Contractor in excess of five percent (5%) of the total amount billed in the invoice where the overcharge occurred, Contractor must refund the overbilled amount and pay liquidated damages in the amount of fifteen percent (15%) of the overbilled amount within thirty (30) days after demand by County as just compensation for damages incurred by County due to the overbilling, including, but not limited to, County's administrative costs and loss of potential investment returns (including interest).

**[DELETE IF NOT APPLICABLE]**

5.6. Foreign Entity Tax Withholding. Amounts due to certain foreign persons or entities may be subject to backup withholding taxes under federal law. If Contractor is a foreign person or entity that is required to complete Internal Revenue Service ("IRS") Form W-8ECI, Contractor shall provide County a copy of Contractor's current Form W-8ECI prior to issuance of any invoice or payment under this Agreement. If Contractor fails to timely provide a completed, current Form W-8ECI, County will withhold all backup withholding taxes from the amounts due Contractor, remit such sums to the IRS, and pay Contractor only the remainder. County makes no representation regarding the tax treatment of amounts due to Contractor, and Contractor releases and holds County harmless from any claims or damages in any way relating to or arising from any tax withholding by County pursuant to this section.

**ARTICLE 6. REPRESENTATIONS AND WARRANTIES**

6.1. Representation of Authority. Contractor represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Contractor, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Contractor has with any third party or violates Applicable Law. Contractor further represents and warrants that execution of this Agreement is within Contractor's legal powers, and each individual executing this Agreement on behalf of Contractor is duly authorized by all necessary and appropriate action to do so on behalf of Contractor and does so with full legal authority.

6.2. Solicitation Representations. Contractor represents and warrants that all statements and representations made in Contractor's proposal, bid, or other supporting documents submitted to County in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Contractor executes this Agreement, unless otherwise expressly disclosed in writing by Contractor.

6.3. Contingency Fee. Contractor represents and warrants that it has not employed or retained any person or entity, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.4. Truth-In-Negotiation Representation. Contractor's compensation under this Agreement is based upon its representations to County, and Contractor certifies that the wage rates, factual unit costs, and other information supplied to substantiate Contractor's compensation, including without limitation those made by Contractor during the negotiation of this Agreement, are accurate, complete, and current as of the date Contractor executes this Agreement. Contractor's compensation may be reduced by County, in its sole discretion, to correct any inaccurate, incomplete, or noncurrent information provided to County as the basis for Contractor's compensation in this Agreement.

6.5. Public Entity Crime Act. Contractor represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Contractor further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Contractor has been placed on the convicted vendor list.

6.6. Discriminatory Vendor and Scrutinized Companies Lists; Countries of Concern. Contractor represents that it has not been placed on the "discriminatory vendor list" as provided in Section 287.134, Florida Statutes, and that it is not a "scrutinized company" pursuant to Sections 215.473 or 215.4725, Florida Statutes. Contractor represents and certifies that it is not, and for the duration of the Term will not be, ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes. Contractor represents that it is, and for the duration of the Term will remain, in compliance with Section 286.101, Florida Statutes.

6.7. Claims Against Contractor. Contractor represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of Contractor, threatened against or affecting Contractor, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Contractor to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Contractor or on the ability of Contractor to conduct its business as presently conducted or as proposed or contemplated to be conducted.

6.8. Verification of Employment Eligibility. Contractor represents that Contractor and each Subcontractor have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that

entry into this Agreement will not violate that statute. If Contractor violates this section, County may immediately terminate this Agreement for cause and Contractor shall be liable for all costs incurred by County due to the termination.

6.9. Warranty of Performance. Contractor represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all Services and that each person and entity that will provide Services is duly qualified to perform such Services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render Services. Contractor represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all Services shall equal or exceed prevailing industry standards for the provision of such services.

6.10. Prohibited Telecommunications Equipment. Contractor represents and certifies that Contractor and all Subcontractors do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Contractor represents and certifies that Contractor and all Subcontractors shall not provide or use such covered telecommunications equipment, system, or services during the Term.

6.11. Criminal History Screening Practices. If this Agreement is subject to the requirements of Section 26-125(d) of the Code, Contractor represents and certifies that Contractor will comply with Section 26-125(d) of the Code for the duration of the Term.

6.12. Entities of Foreign Concern. The provisions of this section apply only if Contractor or any Subcontractor will have access to an individual's personal identifying information under this Agreement. Contractor represents and certifies: (i) Contractor is not owned by the government of a foreign country of concern; (ii) the government of a foreign country of concern does not have a controlling interest in Contractor; and (iii) Contractor is not organized under the laws of and does not have its principal place of business in, a foreign country of concern. On or before the Effective Date, Contractor and any Subcontractor that will have access to personal identifying information shall submit to County executed affidavit(s) under penalty of perjury, in a form approved by County attesting that the entity does not meet any of the criteria in Section 287.138(2), Florida Statutes. Compliance with the requirements of this section is included in the requirements of a proper invoice for purposes of Section 5.2. Terms used in this section that are not otherwise defined in this Agreement shall have the meanings ascribed to such terms in Section 287.138, Florida Statutes.

**[DELETE IF STATE FUNDED CONSTRUCTION SERVICES OR PUBLIC WORKS PROJECT]**

6.13. Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the "Broward County Domestic Partnership Act," Section 16½-157 of the Code ("Act"), Contractor certifies and represents that it shall at all times comply with the provisions of the Act. The contract language referenced in the Act is deemed incorporated in this Agreement as though fully set forth in this section.

6.14. Breach of Representations. Contractor acknowledges that County is materially relying on the representations, warranties, and certifications of Contractor stated in this article, and County shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to Contractor; (c) set off from any amounts due Contractor the full amount of any damage incurred; and (d) debarment of Contractor.

#### **ARTICLE 7. INDEMNIFICATION**

Contractor shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any breach of this Agreement by Contractor, or any intentional, reckless, or negligent act or omission of Contractor, its officers, employees, or agents, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Contractor shall, upon written notice from County, defend each Indemnified Party with counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Contractor under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

#### **ARTICLE 8. INSURANCE**

8.1. Throughout the Term, Contractor shall, at its sole expense, maintain the minimum insurance coverages stated in Exhibit C in accordance with the terms and conditions of this article. Contractor shall maintain insurance coverage against claims relating to any act or omission by Contractor, its agents, representatives, employees, or Subcontractors in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this article.

8.2. Contractor shall ensure that "Broward County" is listed and endorsed as an additional insured as stated in Exhibit C on all policies required under this article.

8.3. On or before the Effective Date or at least fifteen (15) days prior to commencement of Services, as may be requested by County, Contractor shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, Contractor shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.



8.4. Contractor shall ensure that all insurance coverages required by this article remain in full force and effect without any lapse in coverage throughout the Term and until all performance required by Contractor has been completed, as determined by Contract Administrator. Contractor or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

8.5. All required insurance policies must be placed with insurers or surplus line carriers authorized to conduct business in the State of Florida with an A.M. Best rating of A- or better and a financial size category class VII or greater, unless otherwise approved by County's Risk Management Division in writing.

8.6. If Contractor maintains broader coverage or higher limits than the insurance requirements stated in Exhibit C, County shall be entitled to all such broader coverages and higher limits. All required insurance coverages shall provide primary coverage and not require contribution from any County insurance, self-insurance, or otherwise, which shall be in excess of and shall not contribute to the required insurance provided by Contractor.

8.7. Contractor shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit C and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Services. Contractor shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Contractor agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Contractor agrees to obtain same in endorsements to the required policies.

8.8. Unless prohibited by the applicable policy, Contractor waives any right to subrogation that any of Contractor's insurers may acquire against County, and agrees to obtain same in an endorsement of Contractor's insurance policies.

8.9. Contractor shall require that each Subcontractor maintains insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of Contractor under this article. Contractor shall ensure that all such Subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the Subcontractors' applicable insurance policies. Contractor shall not permit any Subcontractor to provide Services unless and until all applicable requirements of this article are satisfied.

8.10. If Contractor or any Subcontractor fails to maintain the insurance required by this Agreement, County may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Contractor. If requested by County,

Contractor shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this article.

8.11. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit C; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Contractor must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit C.

## ARTICLE 9. TERMINATION

9.1. Termination for Cause. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

9.1.1. Contractor's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or Work Authorization, or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices;

9.1.2. By the County Administrator or the Director of Office of Economic and Small Business Development ("OESBD") for fraud, misrepresentation, or material misstatement by Contractor in the award or performance of this Agreement or that violates any applicable requirement of Section 1-81 of the Code; or

9.1.3. By the Director of OESBD upon the disqualification of Contractor as a CBE or SBE if Contractor's status as a CBE or SBE was a factor in the award of this Agreement, or upon the disqualification of one or more of Contractor's CBE or SBE participants by County's Director of OESBD if any such participant's status as a CBE or SBE firm was a factor in the award of this Agreement.

Unless otherwise stated in this Agreement, if this Agreement was approved by Board action, termination for cause by County must be by action of the Board or the County Administrator; in any other instance, termination for cause may be by the County Administrator, the County representative expressly authorized under this Agreement, or the County representative (including any successor) who executed the Agreement on behalf of County. If County erroneously, improperly, or unjustifiably terminates this Agreement for cause, such termination shall be deemed a termination for convenience pursuant to Section 9.2 effective thirty (30) days after such notice was provided and Contractor shall be eligible for the compensation provided in Section 9.2 as its sole remedy.

9.2. Termination for Convenience; Other Termination. This Agreement may also be terminated for convenience by the Board with at least thirty (30) days advance written notice to Contractor. Contractor acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience including in the form of County's obligation to provide advance notice to Contractor of such termination in accordance with this section. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances if the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If this Agreement is terminated by County pursuant to this section, Contractor shall be paid for any Services properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable, and County shall have no further obligation to pay Contractor for Services under this Agreement.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

9.4. In addition to any termination rights stated in this Agreement, County shall be entitled to seek any and all available contractual or other remedies available at law or in equity including recovery of costs incurred by County due to Contractor's failure to comply with any term(s) of this Agreement.

#### **ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE**

10.1. Contractor and Subcontractors shall not discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Contractor shall include the foregoing or similar language in its contracts with all Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2. By January 1 of each year, Contractor must submit, and cause each Subcontractor to submit, an Ownership Disclosure Form (or such other form or information designated by County), available at <https://www.broward.org/econdev/Pages/forms.aspx>, identifying the ownership of the entity and indicating whether the entity is majority-owned by persons fitting specified classifications.

#### **[DELETE SECTIONS 10.3 – 10.10 IF FEDERALLY FUNDED; CONSULT WITH OESBD IF STATE FUNDED]**

10.3. Contractor shall comply with all applicable requirements in Section 1-81 of the Code in the award and administration of this Agreement. Failure by Contractor to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or exercise any other remedy provided under this Agreement or Applicable Law, all such remedies being cumulative.

10.4. Contractor must meet or exceed the required CBE goal by utilizing the CBE firms listed in Exhibit \_\_\_ (or a CBE firm substituted for a listed firm, if permitted) for \_\_\_ percent (\_\_\_%) of total Services (the “Commitment”) for the scope of work and the percentage of work amounts identified on each Letter of Intent. Promptly upon execution of this Agreement by County, Contractor shall enter into formal contracts with the CBE firms listed in Exhibit \_\_\_ and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

**[USE FOLLOWING INSTEAD IF CBE RESERVE]**

County has reserved this procurement solely for performance by CBE firms; therefore the CBE goal is one hundred percent (100%) of the Services (the “Commitment”). Contractor is a CBE firm and agrees that it shall meet the Commitment by Contractor performing the Services without subcontracting, or by Contractor performing at least fifty percent (50%) of the Services and subcontracting the remainder to CBE firms listed in Exhibit \_\_\_ (or CBE firms substituted or approved by OESBD during the Term).

**[USE FOLLOWING INSTEAD IF SBE RESERVE; MODIFY REMAINDER ACCORDINGLY]**

County has reserved this procurement solely for performance by SBE firms; therefore the SBE goal is one hundred percent (100%) of the Services (the “Commitment”). Contractor is an SBE firm and agrees that it will meet the Commitment by Contractor performing the Services without subcontracting, or by Contractor performing at least fifty percent (50%) of the Services and subcontracting the remainder to SBE firms listed in Exhibit \_\_\_ (or SBE firms substituted or approved by OESBD during the Term).

10.5. Each CBE firm utilized by Contractor to meet the CBE goal must be certified by OESBD. Contractor shall inform County immediately when a CBE firm is not able to perform or if Contractor believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Contractor to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Contractor shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the Scope of Services and no CBE firm is available to perform the modified Scope of Services; in which event, Contractor shall notify County, and OESBD may adjust the CBE goal by written notice to Contractor. Contractor shall not terminate a CBE firm for convenience without County’s prior written consent, which consent shall not be unreasonably withheld.

10.6. The Parties stipulate that if Contractor fails to meet the Commitment, the damages to County arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81 of the Code) to meet the Commitment, Contractor shall pay County liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses. An example of this

calculation is stated in Section 1-81.7 of the Code. As elected by County, such liquidated damages amount shall be either credited against any amounts due from County, or must be paid to County within thirty (30) days after written demand. These liquidated damages shall be County's sole contractual remedy for Contractor's breach of the Commitment, but shall not affect the availability of administrative remedies under Section 1-81 of the Code. Contractor acknowledges and agrees that the liquidated damages provided in this section are proportionate to an amount that might reasonably be expected to flow from a breach of the Commitment and are not a penalty. Any failure to meet the Commitment attributable solely to force majeure, changes to the scope of work by County, or inability to substitute a CBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.

10.7. Contractor acknowledges that the Board, acting through OESBD, may make minor administrative modifications to Section 1-81 of the Code, which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Contractor and shall include a deadline for Contractor to notify County in writing if Contractor concludes that the modification exceeds the authority under this section. Failure of Contractor to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Contractor.

10.8. County may modify the required participation of CBE firms in connection with any amendment, extension, modification, change order, or Work Authorization to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, change orders, or Work Authorizations, increases the initial Agreement price by ten percent (10%) or more. Contractor shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, change order, or Work Authorization, and shall report such efforts, along with evidence thereof, to OESBD.

10.9. Contractor shall provide monthly utilization reports, using the form available at <https://www.broward.org/EconDev/SmallBusiness/Pages/Compliance.aspx>, to the Contract Administrator, to OESBD at [SBCOMP@broward.org](mailto:SBCOMP@broward.org), and to the Small Business Specialist designated by the Contract Administrator. In addition, Contractor shall allow County to engage in onsite reviews to monitor Contractor's progress in achieving and maintaining the Commitment. The Contract Administrator in conjunction with OESBD shall perform such review and monitoring, unless otherwise determined by the County Administrator.

10.10. The Contract Administrator may increase allowable retainage or withhold progress payments if Contractor fails to demonstrate timely payments of sums due to all Subcontractors and suppliers. The presence of a "pay when paid" provision in a Contractor's contract with a CBE firm shall not preclude County or its representatives from inquiring into claims of nonpayment.

## **ARTICLE 11. MISCELLANEOUS**

11.1. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Contractor to manage and supervise the performance of this Agreement.

Contractor acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise materially modify the Scope of Services except as expressly set forth in this Agreement or, to the extent applicable, in the Broward County Procurement Code. Unless expressly stated otherwise in this Agreement or otherwise set forth in the Code or the Broward County Administrative Code, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may also approve in writing minor modifications to the Scope of Services that do not increase the total cost to County or waive any rights of County.

11.2. Rights in Documents and Work. Any and all reports, photographs, surveys, documents, materials, data, or other work created by Contractor in connection with performing Services, whether finished or unfinished (“Documents and Work”), shall be owned by County, and Contractor hereby transfers to County all right, title, and interest, including any copyright or other intellectual property rights, in or to the Documents and Work. Upon expiration or termination of this Agreement, the Documents and Work shall become the property of County and shall be delivered by Contractor to the Contract Administrator within seven (7) days after expiration or termination. Any compensation due to Contractor may be withheld until all Documents and Work are received as provided in this Agreement. Contractor shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

11.3. Public Records. Notwithstanding any other provision in this Agreement, any action taken by County in compliance with, or in a good faith attempt to comply with, the requirements of Chapter 119, Florida Statutes, shall not constitute a breach of this Agreement. If Contractor is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Contractor shall:

11.3.1. Keep and maintain public records required by County to perform the Services;

11.3.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

11.3.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to County; and

11.3.4. Upon expiration of the Term or termination of this Agreement, transfer to County, at no cost, all public records in possession of Contractor or keep and maintain public records required by County to perform the services. If Contractor transfers the records to County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt. If Contractor keeps and maintains the public records, Contractor shall meet all requirements of Applicable Law for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

If Contractor receives a request for public records regarding this Agreement or the Services, Contractor must immediately notify the Contract Administrator in writing and provide all requested records to County to enable County to timely respond to the public records request. County will respond to all such public records requests.

Contractor must separately submit and conspicuously label as “RESTRICTED MATERIAL – DO NOT PRODUCE” any material (a) that Contractor contends constitutes or contains its trade secrets under Chapter 688, Florida Statutes, or (b) for which Contractor asserts a right to withhold from public disclosure as confidential or otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (collectively, “Restricted Material”). In addition, Contractor must, simultaneous with the submission of any Restricted Material, provide a sworn declaration or affidavit in a form acceptable to County from a person with personal knowledge attesting that the Restricted Material constitutes trade secrets or is otherwise exempt or confidential under Florida public records laws, including citing the applicable Florida statute and specifying the factual basis for each such claim. Upon request by County, Contractor must promptly identify the specific applicable statutory section that protects any particular document. If a third party submits a request to County for records designated by Contractor as Restricted Material, County shall refrain from disclosing such material unless otherwise ordered by a court of competent jurisdiction, authorized in writing by Contractor, or the claimed exemption is waived. Any failure by Contractor to strictly comply with the requirements of this section shall constitute Contractor’s waiver of County’s obligation to treat the records as Restricted Material. Contractor must indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to nondisclosure of Restricted Material in response to a third-party request.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT [TELEPHONE], [EMAIL]@BROWARD.ORG, [STREET ADDRESS, CITY, STATE, AND ZIP].**

11.4. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Contractor and all Subcontractors that are related to this Agreement. Contractor and all Subcontractors shall keep such books, records, and accounts as may be necessary to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, Contractor and all Subcontractors shall make same available in written form at no cost to County. Contractor shall provide County with reasonable access to Contractor’s facilities, and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

Contractor and all Subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. This article shall survive any dispute or litigation between the Parties, and Contractor expressly acknowledges and agrees to be bound by this article throughout the course of any dispute or litigation with County. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). Contractor hereby grants County the right to conduct such audit or review at Contractor's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice. Contractor shall make all such records and documents available electronically in common file formats or via remote access if, and to the extent, requested by County.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection reveals overpricing or overcharges to County of any nature by Contractor in excess of five percent (5%) of the total contract billings reviewed by County, Contractor shall make adjustments for the overcharges and pay liquidated damages pursuant to Section 5.5. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of County's findings to Contractor.

Contractor shall ensure that the requirements of this section are included in all agreements with all Subcontractor(s).

11.5. Independent Contractor. Contractor is an independent contractor of County, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services, neither Contractor nor its agents shall act as officers, employees, or agents of County. Contractor shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

11.6. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a Party to this Agreement.

11.7. Sovereign Immunity. Except to the extent sovereign immunity may be deemed waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement.

11.8. Third-Party Beneficiaries. Neither Contractor nor County intends to primarily or directly benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no



third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.9. Notice and Payment Address. Unless otherwise stated herein, for notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Payments shall be made to the noticed address for Contractor. Addresses may be changed by the applicable Party giving notice of such change in accordance with this section.

FOR COUNTY:

Broward County [REDACTED]  
Attn: [REDACTED]  
115 South Andrews Avenue, Room [REDACTED]  
Fort Lauderdale, Florida 33301  
Email address: [REDACTED]

FOR CONTRACTOR:

[REDACTED]  
[REDACTED]  
[REDACTED]  
Email address: [REDACTED]

11.10. Assignment. All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator. Except for approved subcontracting, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Contractor without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity. County reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to County to reasonably compensate it for the performance of any such due diligence.

11.11. Conflicts. Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the Term, none of Contractor's officers or employees shall serve as an expert witness against County in any legal or administrative proceeding in which they or Contractor is not a party, unless compelled by legal process. Further, such persons shall not give sworn testimony or issue a report or writing as an expression of such person's expert opinion that is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by legal process. The limitations of this section shall not preclude Contractor or any persons in any way

from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Contractor is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Contractor shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

11.12. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.13. Compliance with Laws. Contractor and the Services must comply with all Applicable Law, including, without limitation, the Americans with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

11.14. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.15. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.16. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated. Any reference to approval by County shall require approval in writing, unless otherwise expressly stated.

11.17. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision within an article or section of this Agreement, the article or section shall prevail and be given effect.

11.18. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive

venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.19. Amendments. Unless expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of County and Contractor.

11.20. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

11.21. HIPAA Compliance. County has access to protected health information (“PHI”) that is subject to the requirements of 45 C.F.R. Parts 160, 162, and 164 and related regulations. If Contractor is considered by County to be a covered entity or business associate or is required to comply with the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) or the Health Information Technology for Economic and Clinical Health Act (“HITECH”), Contractor shall fully protect individually identifiable health information as required by HIPAA or HITECH and, if requested by County, shall execute a Business Associate Agreement in the form set forth at [www.broward.org/Purchasing/Pages/StandardTerms.aspx](http://www.broward.org/Purchasing/Pages/StandardTerms.aspx). The County Administrator is authorized to execute a Business Associate Agreement on behalf of County. Where required, Contractor shall handle and secure such PHI in compliance with HIPAA, HITECH, and related regulations and, if required by HIPAA, HITECH, or other Applicable Law, include in its “Notice of Privacy Practices” notice of Contractor’s and County’s uses of client’s PHI. The requirement to comply with this provision, HIPAA, and HITECH shall survive the expiration or earlier termination of this Agreement. Contractor shall ensure that the requirements of this section are included in all agreements with Subcontractors.

11.22. Payable Interest

11.22.1. Payment of Interest. Unless prohibited by Applicable Law, County shall not be liable for interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and Contractor waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.22.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of

interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.23. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.24. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, whether signed physically or electronically, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.25. Use of County Name or Logo. Contractor shall not use County's name or logo in marketing or publicity materials without prior written consent from the Contract Administrator.

11.26. Drug-Free Workplace. If required under Section 21.23(f), Broward County Administrative Code, or Section 287.087, Florida Statutes, Contractor certifies that it has and will maintain a drug-free workplace program throughout the Term.

**[DELETE IF STATE-FUNDED CONSTRUCTION SERVICES OR PUBLIC WORKS AGREEMENT]**

11.27. Living Wage Requirement. If Contractor is a "covered employer" within the meaning of the "Broward County Living Wage Ordinance," Sections 26-100 through 26-105 of the Code, Contractor shall fully comply with the requirements of such ordinance and shall pay to all of its employees providing "covered services," as defined in the ordinance, a living wage as defined therein. Contractor shall ensure all Subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

**[DELETE IF STATE-FUNDED CONSTRUCTION SERVICES OR PUBLIC WORKS AGREEMENT]**

11.28. Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Contractor as a result of this Agreement, then Section 26-5 of the Code shall be deemed to apply to such construction work. Contractor shall fully comply with the requirements of such ordinance and shall satisfy, comply with, and complete the requirements set forth in Exhibits \_\_\_ and \_\_\_.

11.29. Polystyrene Food Service Articles. Contractor shall not sell or provide for use on County property expanded polystyrene products or food service articles (e.g., Styrofoam), unencapsulated expanded polystyrene products, or single-use plastic straws or stirrers, as set forth in more detail in Section 27.173, Broward County Administrative Code.

**[DELETE IF STATE-FUNDED CONSTRUCTION SERVICES OR PUBLIC WORKS AGREEMENT, OR IF OTHERWISE INAPPLICABLE]**

11.30. Workforce Investment Program. This Agreement constitutes a "Covered Contract" under the Broward Workforce Investment Program, Section 19.211, Broward County Administrative Code ("Workforce Investment Program"). Contractor affirms it is aware of the requirements of

the Workforce Investment Program and agrees to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth the Workforce Investment Program, including by (a) publicly advertising exclusively with CareerSource Broward for at least five (5) business days any vacancies that are the direct result of this Agreement (whether those vacancies are with Contractor or a Subcontractor) and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Agreement. Until at least one year after the conclusion of this Agreement, Contractor shall maintain and make available to County upon request all records documenting Contractor’s compliance with the requirements of the Workforce Investment Program and shall submit the required Workforce Investment Reports to the Contract Administrator annually by January 31 and within thirty (30) days after the expiration or termination of this Agreement. Failure to demonstrate good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal shall constitute a material breach of this Agreement.

**[DELETE REMAINING SECTIONS IF NOT APPLICABLE]**

11.31. Additional Requirements. Contractor shall comply with the [Port Everglades/BCAD/ETS Security] additional requirements attached hereto as Exhibit \_\_\_.

**[IF GRANT FUNDED, INCLUDE ANY APPLICABLE GRANT REQUIREMENTS (STATE OR FEDERAL)]**

11.32. Federally Funded Contracts. Contractor shall comply with the Federally Funded Contracts Requirements attached hereto as Exhibit \_\_\_.

11.33. Construction Apprenticeship Program. If this Agreement is a construction contract as defined in Section 26-9 of the Code and is not funded with any state funding, Contractor represents and certifies that it shall at all times comply with the requirements of the Construction Apprenticeship Program as set forth in Sections 26-8 through 26-11 of the Code.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor authorized to execute same by Board action on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, and Contractor, signing by and through its \_\_\_\_\_ duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through its Board of County Commissioners

By: \_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

By: \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

By \_\_\_\_\_  
Attorney's Name (Date)  
Senior/Assistant County Attorney

By \_\_\_\_\_  
Attorney's Name (Date)  
Deputy County Attorney

ABC/wp  
\_\_\_\_\_.doc  
07/01/2023  
#\_\_\_\_

AGREEMENT BETWEEN BROWARD COUNTY AND \_\_\_\_\_  
FOR \_\_\_\_\_

CONTRACTOR

**CONTRACTOR NAME**

By: \_\_\_\_\_  
Authorized Signer

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**Exhibit A  
Scope of Services**

Contractor shall provide the following Services:

**1. Services Summary**

[Identify in common business language County's need and a short summary of the Services to be provided by Contractor.]

**2. Services Description**

**3. Technical Approach**

A. **Phases.** The Services will be provided in the following Phases:

B. **Implementation.**

C. **Equipment.**

Contractor shall provide the following Equipment:

[Itemize equipment]

D. **Services Schedule**

Contractor shall comply with the following Services Schedule, unless otherwise approved in advance by Contract Administrator:

[Insert detailed schedule]

**4. Managerial Approach**

Contractor will ensure that the persons responsible for Contractor's performance of the Services and, to the extent applicable, identified below (collectively "Key Personnel") are appropriately trained and experienced and have adequate time and resources to perform in accordance with the terms of this Agreement. If Contractor seeks or is required to make any change to the composition of the Key Personnel, Contractor will provide County with thirty (30) days' advance written notice (or as much advance notice as is possible if thirty (30) days' notice is not possible) regarding such changes and the management plan associated with such changes. County shall



have the right, in its sole discretion, to approve or reject any proposed changes to Key Personnel. County shall not be responsible for any additional costs associated with a change in Key Personnel.

The Key Personnel shall be as follows:

[LIST KEY PERSONNEL FOR CONTRACTOR]

The following training will be provided as part of the Services:

[List training courses, types (e.g., “train the trainer”), minimum hours/attendees, etc.]

[Add any other provisions for how the Services will be managed to a successful conclusion.]

## 5. Communication & Reports

[Establish an effective way to communicate the current status of Services and to share pertinent information. Contractor’s lead personnel should provide a brief status report that details the progress of tasks along with an updated Services Schedule. All individual reports and schedules should be combined into a master version to generate an overall initiative status report.]

- A. Meetings/Communication
- B. Required Reporting

## 6. Deliverable Products and Services

Contractor shall provide the following Deliverables, which shall be considered accepted by County only upon written notice by Contract Administrator that the Deliverable meets the applicable Acceptance Criteria.

No.	Deliverable	Deadline	Acceptance Criteria

## 7. Optional Services

[This section spells out any optional services County may seek to purchase.]

**Exhibit B  
Payment Schedule**

The rates specified below shall be in effect for the entire Term, unless otherwise expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

**Table A: Deliverables/Phases Payment**

Description	Retainage	Total Deliverable Amount (including retainage)
Deliverable 1: _____	__%	\$ _____
Deliverable 2: _____	__%	\$ _____

Deliverables shall only be invoiced upon satisfactory completion of the applicable Deliverable as evidenced by written approval by the Contract Administrator. The invoice amount shall be the Total Deliverable Amount minus the applicable Retainage.

**Table B: Hourly Services/Payment**

Staff/Personnel	Rate per Hour
Title/Role	\$ ___/hour
Title/Role	\$ ___/hour

**Table C: Deliverable Not to Exceed Amounts**

Phase/Service	Deliverable	Rate	Retainage (if applicable)	Not-to-Exceed Amount (including retainage)
Phase I	Training	Hourly Fee per Table B	10%	\$ _____
Phase I	Kick-off	Fixed Fee per Table A	10%	\$ _____
Phase II				

**Table D: Reimbursable Expenses** (subject to Florida Statutes Section 112.061)

<b>Reimbursable Expenses</b>	<b>Not-to-Exceed Amount</b>
Travel	\$ _____
Per Diem (meals, lodging, etc.)	\$ _____
Printing, reproduction, or photography	\$ _____
Testing costs	\$ _____
Fees paid to regulatory agencies	\$ _____
Other miscellaneous expenses	\$ _____

**Exhibit C**  
**Minimum Insurance Requirements**  
**[USE FORM PROVIDED BY RISK, NOT CONTRACTOR]**

**Exhibit D  
Work Authorization**

Agreement: [Title, Date, Contract Number]

Work Authorization No. \_\_\_\_\_

---

This Work Authorization is between Broward County and Contractor pursuant to the Agreement. Contractor affirms that the representations and warranties in the Agreement are true and correct as of the date this Work Authorization is executed by Contractor. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

The time period for this Work Authorization will be from the date of County's Notice to Proceed until \_\_\_\_ (\_\_\_\_) days after the Notice to Proceed, unless otherwise extended or terminated by the Contract Administrator.

**Services to be provided:**

[COMPOSE SIMPLE SUMMARY]

See Exhibit A for additional detail.

The applicable not-to-exceed amount stated in the Agreement for the work at issue is \$[\_\_\_\_\_].

The total fee for goods and services under this Work Authorization is \$[\_\_\_\_\_] ("Total Fee").

The Total Fee shall be invoiced by Contractor upon written acceptance by County of all goods and services provided under this Work Authorization.

*(Signatures appear on the following page.)*

IN WITNESS WHEREOF, the Parties hereto have made and executed this Work Authorization, effective as of the date the last party signs this Work Authorization.

**County**

BROWARD COUNTY, by and through  
its \_\_\_\_\_

By: \_\_\_\_\_  
Title \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Contract Administrator

By: \_\_\_\_\_  
(Date)

Project Manager

By: \_\_\_\_\_  
(Date)

Approved as to form by  
Andrew J. Meyers  
Broward County Attorney  
115 South Andrews Avenue, Suite 423  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600

By \_\_\_\_\_  
Attorney's Name \_\_\_\_\_ (Date)  
Senior/Assistant County Attorney

**Contractor**

By: \_\_\_\_\_  
Authorized Signer

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

**Exhibit [ ]**  
**Prevailing Wage Statement of Compliance**

No. \_\_\_\_\_

Agreement No. \_\_\_\_\_ Project Title \_\_\_\_\_

The undersigned Contractor hereby swears under penalty of perjury that, during the period covered by the application for payment to which this statement is attached, all mechanics, laborers, and apprentices, employed or working on the site of the Project, have been paid at wage rates, and that the wage rates of payments, contributions, or costs for fringe benefits have not been less than those required by Section 26-5, Broward County Code of Ordinances, and the applicable conditions of this Agreement.

Dated \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Name and Title)

STATE OF            )  
                                  )  
COUNTY OF        )

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC:

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

State of Florida at Large (Seal)

My commission expires:

**Exhibit [ ]**

**CBE/SBE Subcontractor Schedule and Letters of Intent**

**[Applicable when agreement has assigned CBE or SBE goals]**

Contractor represents that the CBE or SBE participants referenced in the attached Letters of Intent have agreed by written subcontract to perform the percentage of work amounts set forth and that the following information regarding participating Subcontractors is true and correct to the best of his or her knowledge.



**Exhibit [ ]**  
**Certification of Payments to Subcontractors and Suppliers**

RLI/Bid/Contract No. \_\_\_\_\_  
 Project Title \_\_\_\_\_

The undersigned Contractor hereby swears under penalty of perjury that:

1. Contractor has paid all Subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with the "Compensation" article of this Agreement, except as provided in Paragraph 2 below.
  
2. The following Subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

3. The undersigned is authorized to execute this Certification on behalf of Contractor.

Dated \_\_\_\_\_, 20\_\_ \_\_\_\_\_  
 Contractor Name  
 By \_\_\_\_\_  
 (Signature)  
 By \_\_\_\_\_  
 (Name and Title)

STATE OF            )  
 COUNTY OF        )

The foregoing instrument was acknowledged before me, by means of  physical presence or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_, who is personally known to me or who has produced \_\_\_\_\_ as identification.

NOTARY PUBLIC:  
 Signature: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 State of Florida at Large (Seal)  
 My commission expires: