

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS  
AGENDA ITEM SUMMARY

Meeting Date: July 2, 2019

Consent  
 Workshop

Regular  
 Public Hearing

Department: Facilities Development and Operations

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

- A) **Approve** Contract with PGAL, Inc. to provide professional architectural/engineering design, programming, site plan approval, permitting, and construction administration services for the Animal Care and Control Renewal/Replacement/Renovation Project (ACC R/R/R) located at 7100 Belvedere Road in West Palm Beach for a period of three years or until the construction achieves final completion; and
- B) **Authorize** the County Administrator, or designee to execute Consultant Services Authorization (CSA) No. 1 in an amount not to exceed \$200,000.

**Summary:** The ACC R/R/R Project is located on a +/-13.74 acre site located at 7100 Belvedere Road in West Palm Beach. The Facility was constructed in the early 1990's and has remained in continuous operation ever since. In 2017, as part of the County's Infrastructure Sales Tax initiative, \$21,000,000 was identified for the ACC R/R/R Project that was to begin in 2019 and would renew and replace base building systems but also include the construction, dedication or re-assignment of space to create indoor/outdoor facilities, dedicated lobbies, specialized storage and efficient site access/circulation in order to properly address the facilities daily operational requirements. On January 29, 2019, the Board held a workshop and directed staff to prepare a more in-depth programming study (Comparative Study) which; 1) validates/confirms the program/needs, and 2) specifically looks at opportunities, challenges and costs, including continuity of operations during construction of an entirely new facility on the existing site versus accomplishing the project via the R/R/R approach currently contemplated. The Comparative Study will be developed in conjunction with public input via targeted public outreach sessions which will be facilitated by the Consultant team. The results of the Comparative Study will be evaluated by the County in order to determine the most appropriate solution (or some combination) to be used as the scope of the project to be designed. Following the Comparative Study, further professional services will include site planning, programming, design, construction documents, permitting and construction administration services. In order to meet the schedule distributed on February 15, 2019 and authorize consultant services for the Comparative Study prior to the first public input meeting in mid-July, staff is requesting authorization for the County Administrator to execute CSA No. 1. The prime design consultant PGAL, Inc., was selected under Board adopted procedures for this project. To ensure that the specific and unique design considerations necessary for this project are incorporated, PGAL, Inc., has engaged, as a sub-consultant, Animal Arts, a nationally recognized design firm that specializes exclusively in animal care facilities. PGAL, Inc. is a business with a Palm Beach County office and will be using eight (8) Small Business Enterprise (SBE) and Minority/Women Business Enterprise (M/WBE) Palm Beach County sub-consultants for the work. The solicitation for design professionals was advertised on March 17, 2019 according to the Equal Business Opportunity (EBO) Program, with the Final Selection taking place on May 29, 2019. The Goal Setting Committee on March 6, 2019 established an Affirmative Procurement Initiatives (API) requiring a minimum mandatory goal of 20% SBE participation. The prime consultant is not an SBE but has committed to 32% sub-consultants that are S/W/MBE's. **(Capital Improvements Division) District 2 (LDC)**

Background and Justification: (Continued on Page 3)

**Attachments:**

- 1. Location Map
- 2. Final Selection Committee Results
- 3. PGAL, Inc. Contract
- 4. Disclosure of Ownership Interests

Recommended by: Amy Wolf  
Department Director

4/20/19  
Date

Approved by: V. Baker  
County Administrator

4/25/19  
Date

**II. FISCAL IMPACT ANALYSIS**

**A. Five Year Summary of Fiscal Impact:**

Fiscal Years	2019	2020	2021	2022	2023
Capital Expenditures	_____	_____	_____	_____	_____
Operating Costs	_____	_____	_____	_____	_____
External Revenues	_____	_____	_____	_____	_____
Program Income (County)	_____	_____	_____	_____	_____
In-Kind Match (County)	_____	_____	_____	_____	_____
<b>NET FISCAL IMPACT</b>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>	<u><u>-0-</u></u>
<b># ADDITIONAL FTE POSITIONS (Cumulative)</b>	_____	_____	_____	_____	_____
<b>Is Item Included in Current Budget:</b>		Yes	<u>  X  </u>	No	_____
<b>Does this item include use of federal funds?</b>		Yes	_____	No	<u>  X  </u>

Budget Account No: Fund \_\_\_\_\_ Dept \_\_\_\_\_ Unit \_\_\_\_\_ Object \_\_\_\_\_

**B. Recommended Sources of Funds/Summary of Fiscal Impact:**

There is no fiscal impact associated with this item. CSA#1 will be funded from the ACC R/R/R IST project.

C. Departmental Fiscal Review: *Kayn Shea*

**III. REVIEW COMMENTS**

**A. OFMB Fiscal and/or Contract Development Comments:**

<p><u><i>[Signature]</i></u> 6/17/19 OFMB</p>	<p><u><i>[Signature]</i></u> 6/21/19 Contract Development and Control</p>
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**B. Legal Sufficiency:**

*[Signature]*  
Assistant County Attorney

**C. Other Department Review:**

\_\_\_\_\_  
Department Director

**Background and Justification**

Selection of the design professional was performed under Board adopted procedures pursuant to the Consultants Competitive Negotiations Act (CCNA), Florida Statute 287.055. PGAL, is a National firm headquartered in Houston TX., with a local office in Boca Raton; FL. Select PGAL staff will work from the local office. PGAL has engaged Animal Arts for Animal Care design. Animal Arts is a nationally recognized design firm that specializes exclusively in animal care facilities. PGAL will have the lead role throughout the project with close collaboration with Animal Arts, and other subconsultants at each phase of the project.

In 2017, as part of the County's Infrastructure Sales Tax initiative \$21,000,000 was identified for the ACC R/R/R Project that was to begin in 2019. The R/R/R project would include the construction, dedication or re-assignment of space to create indoor/outdoor facilities, dedicated lobbies, specialized storage and efficient site access/circulation in order to properly address the facilities daily operational requirements.

Specifically, the scope of the R/R/R project included:

- Addition of a 12,600 sf 2 story structure to house the spay/neuter clinic and administration area.
- Creation of a physically separated isolation holding area for cats and dogs within the existing structures.
- Addition of 3,650 sf to create a cattery to include an adoption processing lobby, cat nursery, cat adoption temporary holding, grooming room, a free roaming cat adoption/display suite and an outside cat patio areas.
- Addition of 7,350 sf for ACC Field Operations.
- Renovation of approximately 90% of the building including renewal/replacement of the existing building systems and renovations to accommodate a more robust and productive clinic; and

During the summer of 2018, concerned parties contacted ACC and the Board of County Commissioners (Board) with requests for air conditioning of the existing dog kennels or another form of permanent relief for the high, later summer, temperatures. As part of the response, Staff prepared a white paper in response to the Board's September 4, 2018 direction to evaluate options for providing air conditioned kennels for the sheltered dogs. The white paper: 1) discussed the need for and scope of the previously planned R/R/R Project; and 2) described two different upgrade options that include the introduction of air-conditioned kennels.

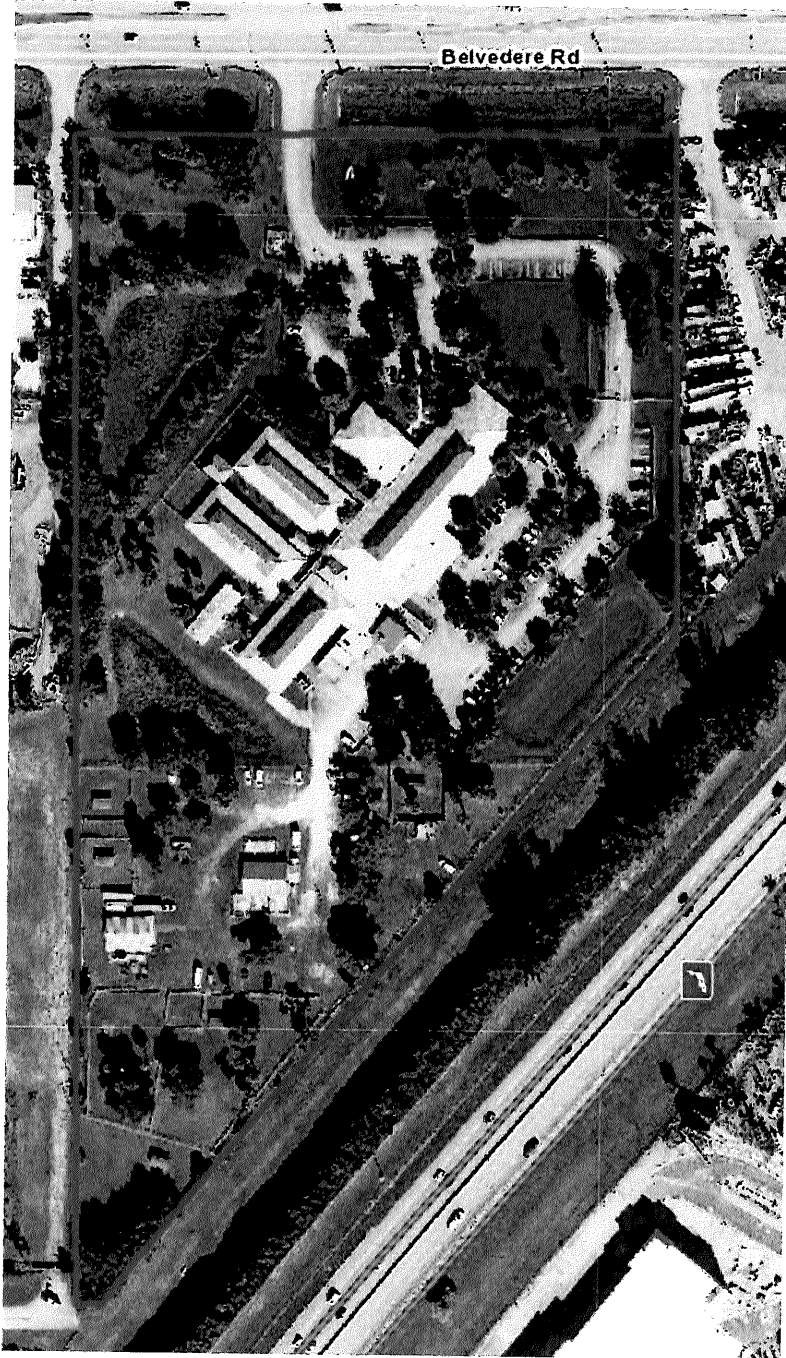
On January 29, 2019, the Board held a workshop and directed staff to prepare a more in-depth programming study (Comparative Study) which; 1) validates/confirms the program/needs, and 2) specifically looks at opportunities, challenges and costs, including continuity of operations during construction, of constructing an entirely new facility on the existing site versus accomplishing the project via the R/R/R approach currently contemplated. The preliminary construction cost is estimated at \$17,000,000 for the R/R/R project as funded. The preliminary cost estimate for the two upgrade options presented to the Board at \$21,000,000 and \$25,000,000. If the Comparative Study results in the Board choosing the approach which involves an entirely new facility, it is likely that the construction cost will be even higher than either the upgrade options.

The Comparative Study will be developed in conjunction with public input via targeted public outreach sessions which will be facilitated by the Consultant team. The Comparative Study will be evaluated by the County in order to determine the most appropriate solution (or some combination) to be used as the scope of the project to be designed. Following this expanded programming phase, professional services will include site planning, programming, design, construction documents, permitting and construction administration services.

# LOCATION MAP

**Project No:** 19201 **Project Name:** Animal Care & Control Renewal/Replacement

7100 Belvedere Rd, West Palm Beach, FL 33411





**Design Services for Animal Care and Control Renewal/Replacement**

Project # 19201

**FINAL SELECTION ORDINAL SCORE TALLY SHEET**

	Jackson & Ryan Architects	PGAL	Rauhaus Freedenfeld
Steve Carrier	2	1	3
Dianne Sauve	2	1	3
Fernando Del Dago	2	1	3
Rich Avery	1	2	3
<del>TANDY WILLIAMS</del> <del>Irwin Jacobowitz</del>	2	1	3
Jon Van Arman	3	1	2
Tonya Johnson	2	1	3
<b>TOTALS</b>	14	8	20

RANKED ORDER      2                      1                      3

\_\_\_\_\_  
Recorded by

5/29/19  
Date

# **CONTRACT FOR CONSULTING SERVICES/DESIGN PROFESSIONAL**

**(Non-Federal Project-Specific)**

**PGAL Inc. –Animal Care and Control Renewal /Replacement**

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**CONTRACT FOR CONSULTING SERVICES/DESIGN PROFESSIONAL**  
**Project Name: Animal Care and Control Renewal/Replacement**  
**Project No.: 19201 (hereinafter the "Project")**

This Contract (hereinafter "Contract") is made as of \_\_\_\_\_  
by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and PGAL Inc., a corporation authorized to do business in the State of Florida, hereinafter referred to as CONSULTANT, whose Federal I.D. number is 76-0291476.

WHEREAS, the COUNTY desires to hire CONSULTANT to provide professional services as described in this Contract;

WHEREAS, the COUNTY has selected CONSULTANT pursuant to the requirements of Section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act;

WHEREAS, negotiations pertaining to the services to be performed by the CONSULTANT were undertaken with the CONSULTANT, and this Contract incorporates the results of such negotiations

NOW, THEREFORE, in consideration of the mutual promises and consideration contained herein, the COUNTY and the CONSULTANT agree as follows:

## **SECTION 1 - DEFINITIONS**

Additional Services: services requested under this Contract that were not included in Basic Services. Additional Services may be authorized through the execution of a Consultant Services Authorization.

Approval/Acceptance/Authorization: when referring to COUNTY's approval, acceptance or authorization, such shall not constitute acceptance or approval of the buildability or suitability of any documents nor the approval or acceptance of the condition, status or progress of the work, but only establishes that the COUNTY has verified such documents exist and that progress payments may be made. No liability shall flow to, be assumed by, or incurred by the COUNTY for its acceptance, approval or authorization of any documents or work hereunder.

Basic Services: all services described under Section 2 of this Contract and included in the Scope of Work attached hereto as **Exhibit B**.

Board or BCC: means the Board of County Commissioners of Palm Beach County Florida which is the governing body of the COUNTY.

Construction/Contract Documents: means the contract documents of the Contractor and shall include, but not be limited to the Advertisement for Bids, Instructions to Bidders, Small Business Enterprise Schedules, Bid Proposal, Bid Bond, Warranties, Notice of Intent to Award, Notice to

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Proceed, Certification of Substantial Completion, General Conditions, Supplemental General Conditions, Special Conditions, Technical Specifications, Design Documents whether preliminary or final, Engineering Drawings, Contract Drawings, Plans, Shop Drawings, Addenda and Change Orders executed pursuant to the Construction Documents.

Consultant: the firm selected to perform the services under this Contract.

Consultant Services Authorization or CSA: a document issued pursuant to this Contract that requests Additional Services under this Contract which includes an agreed upon scope of work, payment terms, schedule, deliverables and other project requirements.

Contractor: the person, firm, corporation or other entity who enters into an agreement with the COUNTY to perform the construction work for the Project.

County Representative: The Director of the COUNTY's Capital Improvements Division.

Observe, Observation(s), Visit(s): site visits by the CONSULTANT to determine if construction is being performed in compliance with the Construction/Contract Documents and to determine if the contractor is progressing according to the Project Schedule.

OEBO or Office of EBO: means the COUNTY's Office of Equal Business Opportunity.

Professional Services or Services of a Design Professional: has the meaning set forth in Florida Statutes Section 287.055, and means those services within the scope of the practice of architecture, professional engineering, landscape architecture, or registered surveying and mapping as defined by the laws of the state of Florida.

S/M/WBE: A business located in Palm Beach County Florida which meets the criteria and eligibility requirements of the COUNTY's Equal Business Opportunity (EBO) Program pursuant to Palm Beach County Code Section 2-80.20 through 2-80.30, as may be amended, and which is certified by the COUNTY's Office of EBO.

Supplement: an amendment to a Consultant Services Authorization.

Capitalized terms not defined in this Contract will have the meaning defined in the Construction/Contract Documents.

## **SECTION 2 - BASIC SERVICES OF CONSULTANT**

### **2.1 GENERAL**

- 2.1.1 Basic Services. CONSULTANT shall provide to COUNTY professional services in all phases of the Project as hereinafter provided in this Section 2 (the Basic Services). These services will include providing professional engineering and/or architectural consultation and advice and furnishing customary civil, structural,

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mechanical, electrical, and plumbing engineering and/or architectural services, surveying, geotechnical services, and regulatory services incidental thereto, as well as any specialty subconsultant services necessary to complete the required Scope of Work.

- 2.1.2 Scope of Work and Fee. The scope of work (hereinafter the Scope of Work) describes the Basic Services required for this Project. The Scope of Work and fees for this Contract are described in **Exhibit B** which is attached hereto and incorporated herein by reference.
- 2.1.3 Design Manual. In the performance of this Contract, the CONSULTANT shall become familiar with and perform such services in accordance with the Policy and Procedures Manual (Manual) for Design Professionals, latest edition, prepared by COUNTY. If CONSULTANT fails to comply with the Manual, it shall redesign in compliance with the Manual at no additional cost to the COUNTY.
- 2.1.4 Progress Reports. The CONSULTANT shall provide progress reports in a format acceptable to the COUNTY during each phase of the Contract at intervals established by the COUNTY. However, the COUNTY is entitled at all times to be advised of the status of the CONSULTANT's work and the details thereof and may request a progress report at any time.
- 2.1.5 Disputes and Specific Performance. All services will be performed by the CONSULTANT to the satisfaction of the COUNTY's Representative or his designee. The COUNTY will decide all questions, difficulties and disputes of any nature whatsoever that may arise under or by reason of the Contract, the prosecution and fulfillment of the services hereunder and the character, quality, amount and value thereof. At all times the CONSULTANT shall continue to perform the services required under this Contract and maintain its Project Schedule. In no event will the filing of a claim or the resolution or litigation thereof through administrative procedures or the courts relieve the CONSULTANT from the obligation to timely perform the services required hereunder.
- 2.1.6 Multiple Projects. In the event the work covered by this Contract includes the preparation of construction plans, CONSULTANT understands that the work may be divided into two or more construction projects by the COUNTY's Representative and that, if this is done, the CONSULTANT will supply construction plans for each project.
- 2.1.7 VSS Registration Required. Prior to beginning work, CONSULTANT must register in the County's Vendor Self Service ("VSS") system at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. If CONSULTANT intends to use subconsultants, CONSULTANT must also ensure that all subconsultant agreements must include a contractual provision requiring that the subconsultant register in VSS.

## 2.2 STUDY AND REPORT PHASE OR SCHEMATIC DESIGN PHASE.

2.2.1 Study and Report Phase. For Engineering Projects: If required as part of the Scope of Work and after written authorization to proceed:

- 2.2.1.1 Project Review. The CONSULTANT shall a consult with COUNTY to clarify and define COUNTY'S requirements for the Project and review available data and shall arrive at a mutual understanding of such requirements with the COUNTY.
- 2.2.1.2 Resources. The CONSULTANT shall advise COUNTY as to the necessity of COUNTY providing or obtaining from others data or services required for the completion of CONSULTANT's services under this Contract, and assist COUNTY in obtaining such data and services.
- 2.2.1.3 Alternatives. The CONSULTANT shall review with the COUNTY alternative approaches to design and construction of the Project.
- 2.2.1.4 Approvals. The CONSULTANT shall identify and analyze requirements of governmental authorities having jurisdiction to approve the design of the Project and participate with COUNTY in consultations with such authorities.
- 2.2.1.5 Needs Analysis. The CONSULTANT shall provide analyses of the COUNTY's needs, planning surveys, site evaluations and comparative studies of prospective sites and solutions.
- 2.2.1.6 Economic Analysis. The CONSULTANT shall provide a general economic analysis of the COUNTY's requirements applicable to various alternatives.
- 2.2.1.7 Report. The CONSULTANT shall prepare a report containing schematic layouts, sketches and conceptual design criteria with appropriate exhibits to indicate clearly the considerations involved (including applicable requirements of governmental authorities having jurisdiction as aforesaid) and the alternative solutions available to COUNTY, and setting forth CONSULTANT's findings and recommendations (the "Study and Report"). This Study and Report will be accompanied by CONSULTANT's opinion of probable construction costs for the Project.
- 2.2.1.8 Copies. The CONSULTANT shall furnish five copies of the Study and Report documents and review them in person with COUNTY.

2.2.2 Schematic Design Phase. For Architectural Projects: If required as part of the Scope of Work and after written authorization to proceed:

- 2.2.2.1 Program Review. The CONSULTANT shall review the program (if one is provided by the COUNTY), to ascertain the requirements of the Project and shall arrive at a mutual understanding of such requirements with the COUNTY.



- 2.2.2.2 Evaluation. The CONSULTANT shall provide a preliminary evaluation of the COUNTY's program, schedule and construction budget requirements, each in terms of the other.
- 2.2.2.3 Alternatives. The CONSULTANT shall review with the COUNTY alternative approaches to design and construction of the Project.
- 2.2.2.4 Documents. Based on the mutually agreed upon program, schedule and construction budget requirements, the CONSULTANT shall prepare for approval by the COUNTY, schematic design documents consisting of drawings and other documents illustrating the scale and relationship of Project components ("Schematic Design Documents").
- 2.2.2.5 Number. The CONSULTANT shall furnish ten (10) copies of the Schematic Design Documents (6 full size and 4 reduced size) and disc with files in pdf and review them in person with the COUNTY.
- 2.2.2.6 Permit List. Concurrent with the completion of the schematic design phase, the CONSULTANT shall provide the COUNTY with a list of all permits and approvals which are required and the date by which the CONSULTANT must submit applications for each in order to meet Project Schedule requirements. The CONSULTANT shall 1) have the COUNTY present at all meetings with representatives of regulatory agencies; 2) have the COUNTY's signature on all applications, and 3) not represent itself as an agent of the COUNTY. The COUNTY will pay directly all associated permit or regulatory fees within fifteen (15) days of notification of same by the CONSULTANT.

### 2.3 PRELIMINARY DESIGN PHASE OR DESIGN DEVELOPMENT PHASE.

2.3.1 Preliminary Design Phase. For Engineering Projects: If required as part of the Scope of Work, and after written authorization to proceed:

- 2.3.1.1 Project Scope. In consultation with COUNTY and on the basis of the accepted Study and Report documents, the CONSULTANT shall assist in determining the general scope, extent and character of the Project.
- 2.3.1.2 Documents. The CONSULTANT shall prepare preliminary design documents consisting of final design criteria, preliminary drawings, outline specifications and written descriptions of the Project (Preliminary Design Documents).
- 2.3.1.3 Resources. The CONSULTANT shall advise COUNTY, in writing, if additional data or services required for the completion of CONSULTANT's services under this Contract are necessary and assist COUNTY in obtaining such data and services.

2.3.1.4 Construction Costs. Based on the information contained in the Preliminary Design Documents, the CONSULTANT shall submit a revised opinion of probable Construction Costs. See Section 7 for further requirements on Construction Costs.

2.3.1.5 Copies. The CONSULTANT shall furnish ten (10) copies of the above Preliminary Design Documents and present and review them in person with COUNTY.

2.3.1.6 Permit List. The CONSULTANT shall be responsible for assisting the COUNTY in securing approvals required to construct the Project described in this Contract. Prior to completion of the conceptual design phase, the CONSULTANT shall provide the COUNTY with a list of all permits and approvals which are required and the date by which the contractor must submit applications for each, in order to meet the Project Schedule requirements. The CONSULTANT shall: 1) have the COUNTY present at all meetings with representatives of regulatory agencies; 2) have the COUNTY's signature on all applications, and 3) not represent itself as an agent of the COUNTY. The COUNTY will pay directly all associated permit and regulatory fees within fifteen (15) days of notification of same by the CONSULTANT.

2.3.2. Design Development Phase. For Architectural Projects: If required as part of the Scope of Work, and after written authorization to proceed:

2.3.2.1 Documents. Based on the approved Preliminary Design Documents or the approved Schematic Design Documents, as the case may be, and any adjustments authorized by the COUNTY in the program, schedule or construction budget, the CONSULTANT shall prepare for approval by the COUNTY design development documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, civil, structural, mechanical and electrical systems, materials and such other elements as may be appropriate ("Design Development Documents").

2.3.2.2 Number. The CONSULTANT shall furnish ten (10) copies of the Design Development Documents (6 full size and 4 reduced size) and disc with files in pdf and present and review them in person with the COUNTY at 100% completion status.

2.3.3 Public Art and Design. If required as part of the Scope of Work and after written authorization to proceed:

2.3.3.1 AIPP. CONSULTANT acknowledges that the COUNTY has established an Art in Public Places Program (AIPP) in order to integrate art into capital projects and to integrate artist's design concepts into the overall project design. Artist(s) are selected by the COUNTY through an independent process.

2.3.3.2 Cooperation. CONSULTANT shall cooperate with the artist(s) and include the

artist(s) in the preliminary design and design phases of the Project for the purpose of properly incorporating the artist's design(s) into the design of the Project. CONSULTANT shall notify the artist(s) in writing of all design meetings and shall provide the artist(s) with a schedule of milestone dates. The artist's design, as properly incorporated into the design of the Project, shall be permitted as part of the master site or facility plan. CONSULTANT shall ensure that subconsultants, if any, are made aware of the AIPP and the possible requirement of working with the artist(s).

#### 2.4 CONSTRUCTION DOCUMENT PHASE.

If required as part of the Scope of Work, and after written authorization to proceed:

- 2.4.1 Documents. Based on the approved Preliminary Design Documents or the approved Design Development Documents, as the case may be, and any further adjustments in the scope of the Project or in the construction budget authorized by the COUNTY, the CONSULTANT shall prepare, for approval by the COUNTY, Construction Documents consisting of drawings and specifications setting forth in detail the requirements for the construction of the Project. Drawings shall be prepared using AutoCAD. Specifications shall be organized and prepared in accordance with Construction Specifications (CSI) Institute's Manual of Practice.
- 2.4.2 Review. The CONSULTANT shall review the COUNTY furnished front-end documents, general conditions, and technical specifications and advise the COUNTY of any conflicts or inconsistencies with CONSULTANT's specifications.
- 2.4.3 Permit List. The CONSULTANT shall provide the COUNTY with a status report on all approvals and permits required to construct the Project which includes confirmation that all comments from the regulatory agencies have been incorporated into the bid documents prepared by the CONSULTANT.
- 2.4.4 Construction Cost Update. The CONSULTANT shall advise COUNTY of any adjustments to the latest opinion of probable Construction Costs caused by changes in general scope, extent or character or design requirements of the Project and furnish to COUNTY a revised opinion of probable Construction Costs based on the drawings and specifications, at the 95% CD submittal. The estimate shall be in CSI format. Refer to Section 7 for further information on Construction Costs.
- 2.4.5 Number. The CONSULTANT shall furnish ten (10) copies (6 full size and 4 reduced size) and disc with files in pdf of the above Construction Documents and of the drawings and specifications and review them in person with the COUNTY at 50%, 95% and 100% completion status. The CONSULTANT shall respond in writing, to any comments given by the COUNTY in writing to the CONSULTANT. On the basis of the accepted 95% Construction Documents, the CONSULTANT shall prepare three (3) sets of signed and sealed Construction Documents for building permit purposes. The CONSULTANT shall provide corrections and/or

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changes required by the permitting agency at no additional cost to the COUNTY (100% Construction Drawings).

- 2.4.6 Format. The CONSULTANT shall provide reproducibles and a CD of the approved construction plans (CAD and pdf files) and a master set of technical specifications (both hard copy and in pdf format) for the COUNTY's use to issue bidding documents. CONSULTANT shall deliver interim copies in electronic format if requested by the COUNTY.
- 2.4.7 Asbestos. CONSULTANT shall not specify any materials which contain asbestos. CONSULTANT shall provide certification that no asbestos containing materials were specified or approved for installation to the extent that CONSULTANT should have reasonably known.
- 2.4.8 Delegation. CONSULTANT shall not delegate any design services to the construction Contractor unless specific approval is given by the COUNTY in advance, in writing. When design/build services are approved by COUNTY, CONSULTANT shall clearly state in the Construction Documents what performance and design criteria must be satisfied by the Contractor.
- 2.4.9 Competition. Construction Documents shall be prepared that enhance competitive bids. Unless authorized in writing by COUNTY, specifications for equipment shall be written in the descriptive style and be non-restrictive in product manufacturer selection. A minimum of two manufacturers or vendors shall be included for each product specified and the Contractor shall be allowed to propose substitutions unless an exception is approved by the COUNTY.

## 2.5 BIDDING OR NEGOTIATING PHASE.

If required as part of the Scope of Work, and after written authorization to proceed:

- 2.5.1 Pre-Bid Meeting. The CONSULTANT shall attend the pre-bid meeting in order to answer questions with regard to design documents or specifications that the CONSULTANT has developed. If official written clarifications are necessary, the COUNTY will issue an addendum to the bidding documents, and the CONSULTANT will assist the COUNTY by recommending language for any addenda that clarifies the CONSULTANT's design.
- 2.5.2 Substitutions. The CONSULTANT shall consult with the COUNTY and advise on the acceptability of substitute materials and equipment proposed by Contractor(s) when substitution prior to the award of contracts is allowed by the bidding documents. However, it is the COUNTY's decision on whether or not a substitution will be allowed.
- 2.5.3 As-Bid Set. Within 20 days after bid opening, the CONSULTANT shall provide to



COUNTY specification sections and drawings updated to reflect changes made by Addendum ("As-Bid Set").

2.5.4 CM. The COUNTY may select a construction manager for this Project (the Construction Manager or CM), and the CONSULTANT shall coordinate its services (Basic and Additional) hereunder with the Construction Manager. Nothing in the CM contract will confer direct responsibility on the Construction Manager for the CONSULTANT's services, nor shall anything contained therein diminish CONSULTANT's responsibility for its services as set forth hereunder.

2.5.4.1 Guaranteed Maximum Price (GMP). At the completion of each phase of design, COUNTY will furnish CONSULTANT with either a cost estimate or a guaranteed maximum price proposal (GMP) prepared by the Construction Manager based upon the design prepared by the CONSULTANT. If the cost estimate is over the stated budget for the Project or if COUNTY does not accept the Construction Manager's GMP proposal, the CONSULTANT shall participate with the COUNTY and Construction Manager in constructability reviews and shall revise the documents as necessary and as approved by the COUNTY in order to construct the Project within the budget. The CONSULTANT shall participate with the COUNTY in reviewing the final GMP proposal documents, together with its supporting assumptions, clarifications, and contingencies.

2.5.4.2 Revisions. After the GMP has been accepted by the COUNTY, the CONSULTANT shall incorporate into the Construction Documents any revisions which are necessary due to inaccurate assumptions and clarifications made in the development of the GMP.

## 2.6 CONSTRUCTION ADMINISTRATION PHASE.

If required as part of the Scope of Work, and after written authorization to proceed:

2.6.1 General Administration of Construction Contract. CONSULTANT shall consult with and advise COUNTY during construction within the limits of the Construction Documents.

### 2.6.2 Visits to Site and Observation of Construction.

2.6.2.1 Meetings. CONSULTANT shall attend the pre-construction conference to answer questions on the CONSULTANT's design and specifications, assist the COUNTY in conducting progress meetings, and record meeting minutes.

2.6.2.2 Site Visits. CONSULTANT and its subconsultants, as necessary, shall make periodic and regular, but no less than once every other week, visits to the site, at intervals appropriate to the various stages of construction as CONSULTANT

deems necessary in order to observe, as an experienced and qualified design professional, the progress, quality and timely performance of the various aspects of Contractor's work relative to the plans and specifications prepared by the CONSULTANT. Based on information obtained during such visits and on such observations, CONSULTANT shall verify and determine if such work is proceeding in accordance with the Construction/Contract Documents and Contractor's schedule and CONSULTANT shall keep COUNTY informed of the progress of the work. Written reports of CONSULTANT's visits shall be provided to COUNTY.

- 2.6.2.3 Purpose of Site Visits. The purpose of CONSULTANT's presence at the site will be to enable the CONSULTANT to better carry out the duties and responsibilities assigned to and undertaken by CONSULTANT during the Construction Administration Phase. In addition, as an experienced and qualified design professional, CONSULTANT will provide for COUNTY greater assurance that the completed work of the Contractor(s) will conform to the Construction/Contract Documents and that the design as reflected in the Construction/Contract Documents has been implemented and preserved by the Contractor(s).
- 2.6.3 Defective Work. On the basis of CONSULTANT's observations, CONSULTANT shall disapprove of or reject Contractor's work while it is in progress if CONSULTANT believes that such work will not produce a completed Project that conforms to the Construction/Contract Documents, or that it will prejudice the design concept of the Project as reflected in the Construction/Contract Documents. The CONSULTANT shall immediately notify the COUNTY and the Contractor of any defective work by the Contractor, and the COUNTY will determine what action is necessary.
- 2.6.4 Interpretations and Clarifications. CONSULTANT shall issue necessary interpretations and clarifications of the Construction/Contract Documents and in connection therewith prepare field bulletins and field instructions for review and approval by the COUNTY.
- 2.6.5 Shop Drawings. CONSULTANT shall review and approve (or take other appropriate action) shop drawings (as that term is defined in the COUNTY's Standard General Conditions), samples, schedules, and other data which Contractor(s) are required to submit for compliance with the Construction/Contract Documents in a timely manner which will not delay the Contractor(s) in completing its work and notify the COUNTY of such reviews.
- 2.6.6 Substitutes. CONSULTANT shall evaluate the acceptability of substitute materials and equipment proposed by Contractor(s) and review with and advise the COUNTY on such acceptability prior to the COUNTY making a determination.

- 2.6.7 Inspections and Tests. CONSULTANT shall have authority to require special inspection or testing of the work after notifying the COUNTY. CONSULTANT shall receive and review all certificates of inspections, testing and approvals required by laws, rules, regulations, ordinances, codes, orders or the Construction/Contract Documents (to determine that their content complies with the requirements of, and the results certified indicate compliance with, the Construction/Contract Documents). COUNTY will pay for testing labs. If the CONSULTANT's testing indicates that the Contractor is not in compliance, the COUNTY will determine the actions that will be taken against the Contractor with regard to the testing results.
- 2.6.8 Disputes and Changes during Construction. CONSULTANT shall act as initial interpreter of the requirements of the Construction/Contract Documents and judge of the acceptability of the Contractor's work thereunder and notify the COUNTY and the Contractor of any variances, deviations and non-conforming work. The COUNTY will determine the course of action necessary after notification of non-conforming work. The CONSULTANT will assist the COUNTY in holding meetings and negotiations with the Contractor to resolve disputes or changes to the Construction/Contract Documents. CONSULTANT will review all change orders and Contractor's extra work proposals and advise COUNTY of the acceptability of the proposed change and the costs of such change. The COUNTY will review, approve and process change orders that the COUNTY determines are necessary.
- 2.6.9 Contractor's Applications for Payment. Based on CONSULTANT's on-site observations as an experienced and qualified design professional and based on review of applications for payment and the accompanying data and schedules:
- 2.6.9.1 Review. CONSULTANT shall determine the amounts owing to Contractor(s) and recommend, in writing, payments to Contractor(s) in such amounts. COUNTY will review payment applications and CONSULTANT's recommendations and determine final approval of payment. Such recommendations of payment by the CONSULTANT will constitute a representation to COUNTY, based on CONSULTANT's observations and review, that the work has progressed to the point indicated, and that, in accordance with the standard of care referenced herein, the work is in compliance with the Construction/Contract Documents. This recommendation will be subject to an evaluation of such work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Construction/Contract Documents and to any other qualifications stated in the recommendation. In the case of unit price work, CONSULTANT's recommendations of payment will include final determinations of quantities and classifications of Contractor's work (subject to any subsequent adjustments allowed by the Construction/Contract Documents).
- 2.6.9.2 Recommendation. By recommending payment, CONSULTANT represents to

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COUNTY that to the best of the CONSULTANT's knowledge the quality and quantity of Contractor's work, as it has been furnished and performed is in compliance with the Construction/Contract Documents.

- 2.6.10 Contractor(s) Completion Documents. CONSULTANT shall receive and review maintenance and operating instructions, schedules, guarantees, bonds and certificates of inspection, tests and approvals which are to be assembled by Contractor(s) in accordance with the Construction/Contract Documents. Such review by the CONSULTANT is to determine that their content complies with the requirements of, and in the case of certificates of inspection, tests and approvals the results certified indicate compliance with the Construction/Contract Documents; and CONSULTANT shall transmit them to COUNTY with written comments.
- 2.6.11 Punch-list. When requested by the COUNTY, CONSULTANT shall review the Contractor's initial punchlist for Substantial Completion and shall prepare a comprehensive list of uncompleted or unacceptable items and deficiencies (punchlist) for review by the COUNTY.
- 2.6.12 Substantial Completion. CONSULTANT shall conduct with the COUNTY an inspection and conduct and/or observe any tests necessary to determine if the work is substantially complete and notify the COUNTY. A final inspection of the Project will be made with the COUNTY to determine if the completed work is acceptable so that the CONSULTANT may recommend, in writing, final payment to the Contractor(s) and may give written notice to the COUNTY and the Contractor(s) that the work is acceptable and in compliance with the Construction/Contract Documents.
- 2.6.13 Changes Documented. The CONSULTANT shall prepare and provide to COUNTY AutoCAD dwg files as well as pdf files on a CD showing those changes made during the construction process, based on the marked-up prints, drawings and other data furnished by Contractor(s) to CONSULTANT and CONSULTANT's own observations and which CONSULTANT considers significant.

## 2.7 OPERATIONAL PHASE.

During the Operational Phase, CONSULTANT shall, when requested by the COUNTY:

- 2.7.1 Assistance. The CONSULTANT shall provide assistance, consistent with contractual services, in conjunction with the start-up, refining, and adjusting of any equipment or system.
- 2.7.2 Advice. In company with the COUNTY, the CONSULTANT shall visit the Project to observe and point out any apparent defects in the completed construction, assist COUNTY in consultations and discussions with Contractor(s) concerning correction of such deficiencies, and make recommendations as to replacement or



correction of defective work, including assisting the COUNTY during warranty of the Project(s).

- 2.7.3 Training. In conjunction with Contractor, the CONSULTANT shall assist in training COUNTY's staff to operate and maintain the Project.

## **SECTION 3 – MODIFICATIONS OF WORK/ADDITIONAL SERVICES**

### **3.1 NOTICE OF CHANGE.**

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

If the COUNTY so instructs in writing, the CONSULTANT shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY's decision regarding the proposed change.

### **3.2 AMENDMENT.**

If the COUNTY elects to make the change, the COUNTY shall issue a Consultant Services Authorization or a Supplement to an existing Consultant Service Authorization; and the CONSULTANT shall not commence work on any such change until such CSA or Supplement has been signed by the CONSULTANT and approved and executed by the COUNTY.

## **SECTION 4 - COUNTY'S RESPONSIBILITIES**

COUNTY shall do the following in a timely manner so as not to delay the services of the CONSULTANT:

### **4.1 COUNTY REPRESENTATIVE.**

The COUNTY will designate in writing a person to act as COUNTY's Representative with respect to the services to be rendered under this Contract. Such person shall have complete authority to transmit instructions, receive information, interpret and define COUNTY's policies and decisions with respect to CONSULTANT's services for the Project.

### **4.2 PROJECT REQUIREMENTS.**

As requested, in writing by CONSULTANT, the COUNTY will provide all criteria and full information as to COUNTY's requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expandability, and any budgetary limitations; and COUNTY will furnish copies of all design and construction standards which COUNTY will require to be included in the drawings and specifications.

4.3 ACCESS.

The COUNTY will arrange for access to and make provisions where necessary for CONSULTANT to enter upon property or inspect COUNTY records as required for CONSULTANT to perform services under this Contract, subject to any applicable requirements regarding Confidential Information as described in Section 8.15 herein.

4.4 REVIEW.

The COUNTY will examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by CONSULTANT. If requested by CONSULTANT, the COUNTY will render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of CONSULTANT. However, said decisions shall create no liability on the part of COUNTY for Approval or Acceptance.

4.5 MULTIPLE PRIMES.

If more than one prime contract is to be awarded for construction, materials, equipment and services for the entire Project, the COUNTY will designate a person or organization to have authority and responsibility for coordinating the activities among the various prime contractors.

4.6 COST DATA.

The COUNTY will furnish to the CONSULTANT data or estimated figures as to COUNTY's anticipated costs for services to be provided by others for COUNTY so that CONSULTANT may make the necessary findings to support opinions of probable Construction Costs.

4.7 MEETINGS.

The COUNTY will attend the pre-bid conference, preconstruction conference, construction progress and other job related meetings and substantial completion inspections and final payment inspections.

4.8 NOTICE.

The COUNTY will give prompt written notice to CONSULTANT whenever COUNTY observes or otherwise becomes aware of any development that affects the scope or timing of

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CONSULTANT's services, or any defect or non-conformance in the work of any Contractor.

## **SECTION 5 - PERIODS OF SERVICE**

### **5.1 TERM.**

The period of service and the Contract term shall commence upon the approval and execution of this Contract by both parties and continue until completion of all project phases, including the completion of all Consultant Services Authorizations issued pursuant to this Contract, or until the earlier termination of this Contract as provided for herein.

### **5.2 TIME EXTENSIONS.**

If the COUNTY has requested significant modifications or changes in the general scope, extent or character of the Project, the time of performance of CONSULTANT's services shall be adjusted equitably.

### **5.3 COUNTY DELAYS.**

If CONSULTANT's services for design or during construction of the Project are delayed or suspended in whole or in part by COUNTY for more than nine (9) months for reasons beyond CONSULTANT's control, CONSULTANT may be entitled to an equitable adjustment in compensation; but in no event shall COUNTY be liable for any lost profits, lost opportunity damage or consequential damages.

### **5.4 SEQUENCING.**

In the event that the work designed or specified by CONSULTANT is to be furnished or performed under more than one prime contract, or if CONSULTANT's services are to be separately sequenced with the work of one or more prime contractors (such as in the case of fast-tracking), COUNTY and CONSULTANT shall, prior to commencement of the Construction Document Phase, develop a schedule for performance of CONSULTANT's services during the Construction Document, Bidding or Negotiating and Construction Administration Phases in order to sequence and coordinate properly such services as are applicable to the work under such separate contracts. This schedule is to be prepared whether or not the work under such contracts is to proceed concurrently and is to be included in the Scope of Work.

### **5.5 MONITORING PROJECT SCHEDULE.**

The CONSULTANT is to provide a detailed project schedule (the Project Schedule) with its Scope of Work and once accepted by the COUNTY, it will be the responsibility of the CONSULTANT to ensure at all times that sufficient time remains in the Project Schedule within which to complete the services required hereunder. In the event there have been delays which would affect the completion date of deliverables under the Project Schedule, the CONSULTANT

will submit a written request to the COUNTY which identifies the reason(s) for the delay, the amount of time related to each reason and specific indication as to whether or not the delays were concurrent with one another. The COUNTY will review the request and make a determination as to granting all or part of the requested extension.

## **SECTION 6 – METHOD OF COMPENSATION AND PAYMENTS TO CONSULTANT**

### **6.1 METHODS OF COMPENSATION**

CONSULTANT will be compensated for services performed under this Contract on either: 1) a fixed price/lump sum basis, or 2) a time charge/not-to-exceed basis; as identified in **Exhibit B** hereto or any applicable CSA. The fixed price/lump sum method of compensation is described in Section 6.3 herein, and the time charge/not to exceed method of compensation is described in Section 6.4 herein.

### **6.2 FEE.**

The COUNTY agrees to pay the CONSULTANT compensation for duly authorized services performed as set forth in **Exhibit B** or in an applicable CSA. **Exhibit B** or an applicable CSA shall establish both the amount of compensation and the method of compensation for services performed under this Contract (i.e. whether the fee is lump sum/fixed price or whether the fee is time charge/not to exceed). If the time charge/not to exceed method of compensation is used, **Exhibit B** or any applicable CSA shall specifically state whether the reimbursement of expenses is authorized and set a separate not to exceed amount for authorized expenses, if any.

### **6.3 FIXED PRICE/LUMP SUM PAYMENT METHOD.**

When the Consultant's services are to be compensated for on a fixed price/lump sum method of compensation, as identified on **Exhibit B** or on a CSA, then the COUNTY and CONSULTANT shall mutually agree to a fixed price/lump sum fee for all services required to complete the Project along with a detailed Scope of Work. Prior to execution of the fixed price/lump sum Contract or CSA, the CONSULTANT shall have submitted to the COUNTY's Representative a detailed cost proposal including the estimated labor hours, labor rates, subcontractual services, out of pocket expenses and other related costs supporting the proposed Scope of Work. The fixed price/lump sum fee shall include all services required to complete the Scope of Work including labor, expenses, overhead and profit as part of the fixed price/lump sum. CONSULTANT agrees that the fee is not tied to construction cost.

### **6.4 TIME CHARGE/ "NOT TO EXCEED" METHOD.**

When the time charge/not to exceed basis is identified in **Exhibit B** or a CSA as the method of compensation, the CONSULTANT will submit a not to exceed budget to the COUNTY's Representative for prior approval based on estimated labor hours and labor rates plus

subcontractual services, out of pocket expenses and other related costs supporting the proposed Scope of Work. The COUNTY shall not be obligated to reimburse the CONSULTANT for costs incurred in excess of the total not to exceed cost amount. The CONSULTANT shall notify the COUNTY's Representative in writing when 90% of the not to exceed amount has been reached. CONSULTANT agrees that the fee is not tied to construction cost.

6.5 SUBCONTRACTS.

Sub-contractual services shall be included at the actual fees proposed by the subconsultant and accepted by the COUNTY. Subcontractual services and fees shall be approved by the COUNTY in writing prior to performance of the sub-contractual work.

6.6 LABOR RATES.

Labor rates of CONSULTANT and any subconsultants shall not exceed the actual hourly raw labor rates for services rendered by personnel directly engaged on COUNTY projects, multiplied by an overall overhead and profit factor. The labor rates and overhead and profit factors are to be provided upon request and are subject to audit.

6.7 EXPENSES.

6.7.1 If out-of-pocket expenses are authorized in **Exhibit B** or a CSA:

6.7.1.1 All reimbursable expenses will be estimated up front at the time of negotiating **Exhibit B** or at the time of each Consultant Service Authorization or Supplement to a CSA;

6.7.1.2 **Exhibit B**, a CSA, or Supplement to a CSA must include a separate not to exceed amount for expenses;

6.7.1.3 Expenses will only be reimbursed up to the separately stated not-to-exceed amount. All expenses exceeding the not- to-exceed amount are the responsibility of the CONSULTANT.

6.7.2 Out-of-pocket expenses means the actual expenses expected to be incurred by the CONSULTANT or CONSULTANT's subconsultants directly or indirectly in connection with the work subject to the following:

6.7.2.1 Reimbursement for travel expenses such as per diem, mileage, meals or lodging expenses shall be in accordance with F.S. 112.061;

6.7.2.2 Reimbursement will not be provided for items or expenses normally connected with the course of doing business such as office supplies, advertisements for hiring personnel, lease or purchase of office furniture or office space, local telephone service, taxes, entertainment expenses (including business lunches), computer time on the CONSULTANT's own equipment, and normal reproduction

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(copying) charges.

6.7.2.3 Special charges such as printing, duplicating, soil borings, aerial photography, etc. may be reimbursed if **Exhibit B** or a CSA identifies the quantity and unit cost maximum for each type of special charge required by the Contract and identifies the expense as subject to reimbursement;

6.7.2.4 Charges for specialized equipment shall be determined on an individual basis subject to advance approval of the COUNTY;

6.7.2.5 The COUNTY reserves the right to determine if an expense is reasonable and may reject expenses which are excessive or represent costs of a personal nature. The COUNTY will not reimburse the cost of tips, personal items, sundries, travel insurance, in-room movies, laundry or valet services, cable TV hookups or charges, first class airfare (unless no other service is available), alcoholic beverages, entertainment expenses, and meals or snacks (except meal allowance as authorized by F.S. 112.061)

6.7.3 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 the Contract and as applicable in each Consultant Service Authorization.

#### 6.8 SCHEDULE OF VALUES.

For either method of compensation, CONSULTANT and COUNTY shall agree on a Schedule of Values incorporating Scope of Work references, deliverables, and milestones. A pay application with percent complete of each activity shall be included with each billing. A schedule update of CONSULTANT's work shall be included with each billing.

#### 6.9 PROGRESS PAYMENTS.

For either method of compensation, the CONSULTANT will bill the COUNTY at the amounts set forth for services rendered toward the completion of the Scope of Work. Payments will generally be made either after completion of scheduled milestones or after acceptance of specified deliverables. Where incremental billings for partially completed items are permitted, the total incremental billings shall not exceed the percentage of estimated completion of identifiable deliverables or accepted deliverables as of the billing date.

#### 6.10 APPROVAL PROCESS.

Pay applications received from the CONSULTANT pursuant to this Contract will be reviewed and approved by the COUNTY's Representative or his/her designee, indicating that services have been received, and then will be sent to the Finance Department for payment.

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Invoices must reference the Contract and project number, and if applicable, the Consultant Service Authorization. COUNTY shall provide CONSULTANT with a written notice of disputed invoice within 10 days after receipt of such invoice which clearly states any and all deficiencies in CONSULTANT's invoice that will prevent prompt processing and issuance of payment. To the extent there is an undisputed portion of the invoice that can be paid, the COUNTY shall proceed with prompt payment of that portion of the invoice. Invoices will be paid in accordance with the Local Government Prompt Payment Act.

#### 6.11 FINAL PAYMENT.

In order for both parties to close their books and records, the CONSULTANT will clearly state Final on the CONSULTANT's final/last billing to the COUNTY. This shall constitute CONSULTANT's certification that all services have been properly performed and all charges and costs have been invoiced to COUNTY. Since this account will thereupon be closed, any and other further charges, if not properly included on this final invoice, are waived by the CONSULTANT.

#### 6.12 RIGHT OF OFFSET.

Except for issues arising from contract indemnification provisions, the COUNTY will have the right to retain out of any payment due the CONSULTANT under this Contract an amount sufficient to satisfy any amount due and owing to the COUNTY by the CONSULTANT under this Contract. The COUNTY may withhold payment on any invoice in the event that the CONSULTANT is in default under any provision of this Contract as of the time of processing the invoice or as of the time payment is made available on the invoice. This right to withhold will continue until such time as the default has been cured, and, upon cure, the COUNTY will have the right to retain an amount equal to the damages suffered as a result of the default.

## **SECTION 7 - CONSTRUCTION COST AND OPINIONS OF COST**

### 7.1 CONSTRUCTION COST.

7.1.1 Definition. The "Construction Cost" of the Project means the total cost to COUNTY of those portions of the entire Project designed and specified by CONSULTANT.

7.1.2 Fixed Construction Budget Cap. Upon completion of the Preliminary Design Phase for engineering projects or upon completion of the Design Development Phase for architectural projects, the COUNTY's Representative will determine a fixed construction budget cap for this Project (Fixed Construction Budget Cap). The CONSULTANT agrees to maintain this amount or it shall redesign at no cost to the COUNTY until the Project can be achieved within this limit. The program shall not be lessened by design requirements to decrease costs without the express written approval of the COUNTY's Representative. Similarly, "add alternates" for program requirements are not allowable in order for the CONSULTANT to lessen

costs to meet the Fixed Construction Budget Cap.

## **SECTION 8 - GENERAL CONSIDERATIONS**

### **8.1 STANDARD OF CARE.**

The CONSULTANT has, during the selection and negotiation process which has preceded this Contract, represented to COUNTY that the CONSULTANT is possessed of that level of skill, knowledge, experience and expertise that is commensurate with design firms of national repute in the areas of practice required for this Project. CONSULTANT acknowledges that COUNTY has relied on CONSULTANT's representations of skill, knowledge, experience and expertise. By executing this Contract, CONSULTANT agrees that CONSULTANT will exercise that degree of care, knowledge, skill, and ability as other design professionals possessing the degree of skill, knowledge, experience and expertise which CONSULTANT has claimed. CONSULTANT shall perform such duties as may be assigned without neglect. CONSULTANT accepts the relationship of trust and confidence established by this Contract, and covenants with COUNTY to cooperate with COUNTY and to utilize CONSULTANT's skill, efforts and judgment commensurate with design firms of national repute in the areas of practice required for this Contract. CONSULTANT agrees to perform each assignment in an efficient and economical manner consistent with the COUNTY's interests and consistent with the COUNTY's stated objectives and recognized professional design standards.

CONSULTANT further contracts with COUNTY to furnish its professional skill and judgment with due care in accordance with applicable Federal, State and local laws, codes and regulations as amended and supplemented which are in effect on the date of this Contract first written. It is specifically understood that the Florida Accessibility Code for Building Construction latest edition as enacted by the Florida Building Code shall be complied with and incorporated into the Project. Additionally, Title II requirements of the 2010 ADA Standards for Accessible Design (published by DOJ, September 15, 2010) shall be complied with and incorporated into the Project.

Although specific provisions of this Contract refer to some services with terms such as complete, accurate, full extent, highest, in detail, verify, certify, represent, substantiate, inspect, monitor, discover, as often as necessary, approve, accept, reject, and enforce, such terms and similar terms shall be qualified by the standard of care stated in the preceding two paragraphs.

The CONSULTANT shall not be responsible for the means, methods, techniques, sequences and operations of construction or safety precautions and programs except as provided in this Contract.

Acceptance of the work by the COUNTY or Contract termination does not constitute COUNTY approval and will not relieve the CONSULTANT of the responsibility for subsequent corrections of any errors and/or omissions and the clarification of any ambiguities. The CONSULTANT shall make all necessary revisions or corrections resulting from errors and/or omissions on the part of the CONSULTANT without additional compensation.



## 8.2 TERMINATION.

This Contract may be canceled by the CONSULTANT 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 CONSULTANT. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days written notice to the CONSULTANT or without cause upon ten (10) business days written notice to the CONSULTANT. Unless the CONSULTANT is in breach of this Contract, the CONSULTANT shall be paid for services rendered to the COUNTY's satisfaction through the date of termination. In no event, whether termination is with or without cause, shall the COUNTY be liable for any lost profits, lost opportunity damage, or consequential damages. After receipt of a termination notice and except as otherwise directed by the COUNTY, the CONSULTANT 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.

Should a termination for breach later be declared wrongful, said termination shall be considered and treated as a termination without cause.

Notwithstanding any breach of this Contract by either party nor the status of payment to the CONSULTANT, nor the COUNTY's exercise of its rights of termination, it is hereby agreed between the parties that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to this Project which have been created as a part of CONSULTANT's services or authorized by the COUNTY as a reimbursable expense, whether generated directly by the CONSULTANT, or by or in conjunction or consultation with any other party whether or not a party to this Contract, whether or not in privity of contract with the COUNTY or CONSULTANT, and wherever located shall be the property of the COUNTY.

## 8.3 TRUTH-IN-NEGOTIATIONS CERTIFICATE.

Signature of this Contract by the CONSULTANT shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and 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 CONSULTANT's most favored customer for the same or substantially similar service.

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 consultants. The COUNTY shall exercise its rights under this Certificate within three (3) years following final payment. COUNTY has the authority and right to audit CONSULTANT's records under this provision.

#### 8.4 PERSONNEL

- 8.4.1 Representations. The CONSULTANT 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 or conflicting relationship with the COUNTY.

All of the services required herein shall be performed by the CONSULTANT 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 CONSULTANT's key personnel or subconsultants as listed in CONSULTANT's proposal and/or presentation to the COUNTY's selection committee must be made known to the COUNTY's Representative and written approval must be granted by the COUNTY before said change or substitution can become effective.

The CONSULTANT represents and warrants that all services shall be performed by skilled and competent personnel to the professional standard of care set forth in Section 8.1 above.

All of the CONSULTANT's personnel (and all subcontractors) will comply with all COUNTY requirements covering conduct, safety, and security while on COUNTY premises.

- 8.4.2 CONSULTANT's Representative. Concurrent with its fee proposal, the CONSULTANT shall advise the COUNTY of the name of its proposed project manager (the Project Manager). The Project Manager shall devote such time as may be necessary to the Project and as may be appropriate to and consistent with full and timely performance of this Contract. This individual shall be assigned to the Project through final acceptance of construction. The Project Manager shall not be removed from his/her responsibilities on this Project without the written consent of the COUNTY. The COUNTY shall retain reasonable right of approval of the CONSULTANT's designated Project Manager and the right to require the CONSULTANT to replace its designated Project Manager with another individual acceptable to the COUNTY.

## 8.5 CRIMINAL HISTORY RECORDS CHECK.

The CONSULTANT, CONSULTANT'S employees, subcontractors/subconsultants of CONSULTANT and employees of subcontractors/subconsultants 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 CONSULTANT is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the CONSULTANT 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 Resolution R2003-1274, as amended. COUNTY staff representing the COUNTY department will contact the CONSULTANT and provide specific instructions for meeting the requirements of this Ordinance.

Each individual undergoing a criminal justice background check is required to have his/her own unique email address in order to comply with security awareness training. If an employee of CONSULTANT does not have his/her own unique email address, CONSULTANT agrees to provide one to that employee.

Individuals passing the background check will be issued a badge. CONSULTANT shall make every effort to collect the badges of its employees and its subconsultants' employees upon conclusion of the contract work and return them to the COUNTY. If the CONSULTANT or its subconsultant terminates an employee who has been issued a badge, the CONSULTANT must notify the COUNTY within 2 hours. At the time of termination, the CONSULTANT shall retrieve the badge and return it to the COUNTY in a timely manner. The COUNTY reserves the right to suspend any consultant that; 1) is not in compliance with the requirements of County Code Section 2-371-2-377 as may be amended, 2) does not immediately contact the COUNTY regarding a terminated employee or subconsultant employee, or 3) fails to make a good faith effort to comply with the badge retrieval policy.

## 8.6 EQUAL BUSINESS OPPORTUNITY PROGRAM.

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 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 CONSULTANT 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 S/M/WBE participation as committed to in the Contract, and the dollar value of S/M/WBE participation as actually achieved.

The CONSULTANT must adhere to the Affirmative Procurement Initiatives (APIs) as set out in **Exhibit A** to this Contract, the RFP, and the CONSULTANT's proposal, which are incorporated herein by reference. Failure to comply with this section of the Contract is a material breach of this Contract.

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

CONSULTANT shall pay subconsultants undisputed amounts within ten (10) days after County pays the CONSULTANT. In the event of a disputed invoice, the CONSULTANT shall send the subconsultant and COUNTY a written notice of the dispute within five (5) days after receipt of the subject invoice.

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

The Office of EBO has the right to review CONSULTANT's records and interview Subcontractors in order to determine compliance with the County's EBO Program and contract requirements for up to four (4) years from contract completion or termination date.

8.7 NON-DISCRIMINATION.

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 CONSULTANT 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 CONSULTANT 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 CONSULTANT 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 CONSULTANT retaliate against any person for reporting instances of such discrimination. The CONSULTANT 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 CONSULTANT 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. CONSULTANT shall include this language in its subcontracts.

#### 8.8 INDEPENDENT CONTRACTOR RELATIONSHIP.

The CONSULTANT is, and shall be, in the performance of all work, services and activities under this Contract, an Independent Contractor, and not an employee, agent, representative 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 CONSULTANT's sole direction, supervision, and control. The CONSULTANT shall exercise control over the means and manner in which it and its employees, sub-consultants and suppliers perform the work, and in all respects the CONSULTANT'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 CONSULTANT does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

The CONSULTANT represents that all subconsultant agreements entered into shall incorporate by reference the terms and conditions of this Contract, and further warrants that the COUNTY is an intended express third party beneficiary of any such subcontract.

#### 8.9 CONTINGENT FEES.

The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT 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 CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award

of making of this Contract.

8.10 AUTHORITY TO PRACTICE.

The CONSULTANT 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.

All final plans, documents, reports, studies and other data prepared by the CONSULTANT shall bear the professional's seal/signature, in accordance with the applicable Florida Statutes.

8.11 TAXES.

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the CONSULTANT. The CONSULTANT shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY. The CONSULTANT is not authorized to use the COUNTY's Tax Exemption Number in securing such materials.

The CONSULTANT shall be responsible for payment of its own and its share of its employee's payroll, payroll taxes, and benefits with respect to this Contract.

8.12 AVAILABILITY OF FUNDS.

The COUNTY's performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners.

8.13 INSURANCE.

8.13.1 Requirements. CONSULTANT 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. The requirements contained herein, as well as COUNTY's review or acceptance of insurance maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by CONSULTANT under this Contract.

8.13.2 Commercial General Liability. CONSULTANT shall agree to maintain Commercial General Liability at a limit of liability not less than \$1,000,000 Each Occurrence. CONSULTANT shall provide this coverage on a primary basis.

8.13.3 Business Automobile Liability. CONSULTANT shall maintain Business Automobile Liability at a limit of liability not less than \$1,000,000 Each Occurrence for all owned, non-owned and hired automobiles. In the event CONSULTANT doesn't own any automobiles, the Business Auto Liability

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requirement shall be amended allowing CONSULTANT to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. CONSULTANT shall provide this coverage on a primary basis.

- 8.13.4 Worker's Compensation Insurance & Employers Liability. CONSULTANT shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. CONSULTANT shall provide this coverage on a primary basis.
- 8.13.5 Professional Liability. CONSULTANT shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 Per Occurrence. When a self-insured retention (SIR) or deductible exceeds \$25,000, COUNTY reserves the right, but not the obligation, to review and request a copy of CONSULTANT's most recent annual report or audited financial statement. For policies written on a Claims-Made basis, CONSULTANT shall maintain a Retroactive Date prior to or equal to the effective date of this Contract. The retro date shall be shown on the certificate. 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 life of this Contract, CONSULTANT shall purchase a SERP with a minimum reporting period not less than 3 years. **The requirement to purchase a SERP shall not relieve the CONSULTANT of the obligation to provide replacement coverage.**
- 8.13.6 Additional Insured. CONSULTANT shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers and Employees". CONSULTANT shall provide the Additional Insured endorsements coverage on a primary basis.
- 8.13.7 Waiver of Subrogation. CONSULTANT hereby waives any and all rights of Subrogation against the COUNTY, its officers and employees for each required policy. 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 CONSULTANT shall agree to 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, which a condition to the policy specifically prohibits such an endorsement, or voids coverage should CONSULTANT enter into such an agreement on a pre-loss basis.

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- 8.13.8 Certificate(s) of Insurance. Prior to execution of this Contract, CONSULTANT shall deliver to the COUNTY and to JDi Data Corporation a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverage required by this Contract have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum ten (10) day endeavor to notify due to cancellation or non-renewal of coverage.

Certificates for the COUNTY shall be addressed to:

Palm Beach County Board of County Commissioners,  
c/o Capital Improvements Division,  
2633 Vista Parkway,  
West Palm Beach, FL 33411-5604,

and for JDi Data Corporation:

Certificate Holder Address, (Certificates need to include the following as the Certificate Holder)

Palm Beach County  
c/o JDi Data Corporation  
100 W. Cypress Creek Rd., Suite 1052  
Ft. Lauderdale, FL 33309

- 8.13.9 Renewal Policies. The CONSULTANT shall promptly deliver to JDi Data Corporation a certificate of insurance with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the terms specified herein. Such certificate shall be delivered to JDi Data Corporation not less than five (5) business days before the expiration date of any policy.
- 8.13.10 Umbrella or Excess Liability. If necessary, CONSULTANT may satisfy the minimum limits required above for either Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest Each Occurrence limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an Additional Insured on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a Follow-Form basis.
- 8.13.11 Right to Review. 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, coverages, or endorsements, herein from time to time throughout the term of this Contract. COUNTY reserves the right, but not the obligation, to review and reject

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any insurer providing coverage because of its poor financial condition or failure to operate legally.

#### 8.14 OWNERSHIP OF DOCUMENTS.

The CONSULTANT shall deliver to the COUNTY's Representative, for 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.

All information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the CONSULTANT and will not be disclosed to any other party, directly or indirectly, without the COUNTY's prior written consent unless required by a lawful order.

All drawings, maps, sketches, programs, data base, reports and other data developed, utilized, or purchased under this Contract for a COUNTY project 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. However, CONSULTANT will incur and assume no liabilities for reuse unless CONSULTANT agrees with said reuse and is compensated for any revisions necessary to update plans for Code compliance, site adaptations, or COUNTY requested changes.

If COUNTY requests in writing, the CONSULTANT shall return to COUNTY any and all records, notes, and other written, printed, or tangible materials in its possession pertaining to Confidential Information immediately.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representation 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.

#### 8.14A PHOTOGRAPHY OF FINAL PROJECT

If CONSULTANT photographs or videos the completed Project, CONSULTANT agrees to provide the COUNTY with a copy of such photos or video in a digital file uploaded to the COUNTY's File Transfer Protocol (FTP) site or provided on a DVD delivered to the County's Representative.

#### 8.15 CONFIDENTIALITY OF INFORMATION AND COMPLIANCE WITH THE PUBLIC RECORDS LAW.

8.15.1 Public Records Requests. Under Chapter 119, Florida Statutes (the Florida Public Records Law), a request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency.

8.15.2 Records Exempt from the Public Records Laws. The Florida Public Records Law

provides for certain exemptions to Florida's Public Records Law to protect the security of specific governmental facilities, employees and visitors. For the same security reasons, the COUNTY has the statutory obligation to protect such records from public disclosure and only disclose confidential information to a licensed engineer, architect or contractor. The purpose of this Section is to facilitate the CONSULTANT's work by making specific documents available to individuals/firms while implementing controls on the distribution of records or information which is confidential and/or exempt from the Florida Public Records Law.

8.15.3 Confidential Information. For purposes of this Section, "Confidential Information" shall include all information or material that is confidential or exempt according to the Florida Public Records Law. The exemptions most relevant to the CONSULTANT include, but are not limited to:

- Plans, blueprints, drawings and diagrams which depict the internal layout and structural elements of a building or other structure owned or operated by the COUNTY;
- Security system plans records, information, photographs, audio and visual representations, schematic diagrams, surveys, recommendations or consultations relating directly to the physical security of the facility or revealing security systems;
- Threat assessments;
- Emergency evacuation plans;
- Sheltering arrangements; and/or
- Manuals for security personnel, emergency equipment or security training.

The CONSULTANT has an obligation to maintain the confidential status of Confidential Information. The CONSULTANT shall hold and maintain the Confidential Information in the strictest confidence for the sole and exclusive benefit of the COUNTY. The CONSULTANT shall restrict access to Confidential Information to: 1) the CONSULTANT's employees, and/or 2) licensed architects, engineers, contractors, subcontractors (Third Parties) for the sole purpose of providing services related to this Contract. Prior to releasing any Confidential Information to a Third Party, the CONSULTANT shall require those Third Parties to execute nondisclosure restrictions at least as protective as those in this Contract, and maintain a list of any Third Party to which the CONSULTANT has distributed Confidential Information. Other than as authorized above, the CONSULTANT **shall not, without prior written approval of COUNTY, publish, copy, or otherwise disclose to others any Confidential Information.**

8.15.4 Disclosure Warning. If Confidential Information is in written form, the CONSULTANT shall label or stamp the materials as they are created with the Disclosure Warning described below on each and every sheet of plans, documents or reports that contains exempt information. If the CONSULTANT is distributing Confidential Information to authorized recipients, the materials and the correspondence related thereto should contain the following disclosure warning:

**DISCLOSURE WARNING.** THIS DOCUMENT IS EXEMPT AND CONFIDENTIAL UNDER SEC. 119.071, FLORIDA STATUTES. ANY ENTITY OR PERSONS RECEIVING SUCH INFORMATION SHALL MAINTAIN THE EXEMPT AND CONFIDENTIAL STATUS



OF THE INFORMATION UNLESS OTHERWISE AUTHORIZED BY THE COUNTY. THESE DOCUMENTS SHALL NOT BE DISTRIBUTED, LOANED OR COPIED WITHOUT THE WRITTEN PERMISSION OF THE COUNTY IN ACCORDANCE WITH THE RELEVANT PROVISIONS OF FLORIDA LAW. THE COUNTY MUST BE ADVISED IMMEDIATELY AS TO ANY CHANGES IN CUSTODIAN FROM THOSE PERSONS LISTED IN CORRESPONDENCE FOR ORIGINAL DISTRIBUTION, IF THE DOCUMENTS ARE LOST OR STOLEN, OR IF THERE IS IMPROPER DISCLOSURE OR UNAUTHORIZED USE OF THE INFORMATION IN THE DOCUMENT. UPON COMPLETION OF USE, WORK, PROJECT, OR CONTRACT, THE CONSULTANT/CONTRACTOR SHALL SHRED OR BURN ANY DUPLICATE RECORDS.

8.15.5 Identifying Correspondence that May Contain Exempt or Confidential Information. In order to assist in the identification of electronic records (email) which may be exempt from public records requests and protect information that is exempt from disclosure, the CONSULTANT (as either the writer or receiver of an electronic document which may contain confidential or exempt information) must use the letters "PREX" (in caps) as the first four letters of the subject line of the electronic document. The PREX identifier should be used if the email contains confidential and/or exempt information in the body and/or an attachment.

8.15.6 Notification of Improper Disclosure. COUNTY must be notified immediately if the Confidential Information is lost or stolen or of any improper disclosure or unauthorized use of the Confidential Information. The CONSULTANT shall make a report to the COUNTY not more than seven (7) business days after the CONSULTANT learns of such an improper disclosure or unauthorized use of the Confidential Information. The CONSULTANT's report shall identify, to the extent known, the nature of the improper disclosure or unauthorized use, the Confidential Information disclosed or used, who made the disclosure of or used the information, what the CONSULTANT has done or shall do to mitigate any harmful effects of the improper disclosure or unauthorized use, and what corrective action the CONSULTANT has taken or shall take to prevent future similar unauthorized use or improper disclosure. The CONSULTANT shall provide any other such information about the unauthorized use or improper disclosure as reasonably requested by the COUNTY. The CONSULTANT shall take all steps the COUNTY deems advisable to mitigate, resolve and/or prevent the unauthorized use or improper disclosure of the Confidential Information.

8.15.7 Survival. The nondisclosure provisions of this Section shall survive the termination of this Contract. The CONSULTANT's duty to hold Confidential Information in confidence shall remain in effect until COUNTY sends the CONSULTANT written notice releasing the CONSULTANT from the provisions of this Section.

8.15.8 Enforcement. The CONSULTANT understands that non-compliance with the terms of this Section may result in debarment pursuant to the Palm Beach County Code as well as subject itself to any other remedies available to the COUNTY at law or in equity.

**IF THE CONTRACTOR/CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE**

**CONTRACTOR/CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT: BUSINESS AND COMMUNITY AGREEMENTS MANAGER, FACILITIES DEVELOPMENT & OPERATIONS, 2633 VISTA PARKWAY, WEST PALM BEACH, FL 33411 OR BY EMAIL AT FDORECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-233-5252.**

8.16 REMEDIES.

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce the Contract will be held 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 or 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.

COUNTY and CONSULTANT agree that the notice and cure provisions of Florida Statute Chapter 558 shall not apply to this Contract.

Pursuant to Section 558.0035 Florida Statutes, the CONSULTANT is the responsible party for the professional services it agrees to provide under this Contract. No individual professional employee, agent, director, officer or principal may be individually liable for negligence arising out of this Contract, as long as the CONSULTANT maintains the professional liability insurance required under this Contract and as long as any damages are solely economic in nature and the damages do not extend to personal injuries or property not subject to this Contract.

8.17 INDEMNIFICATION.

The CONSULTANT 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 CONSULTANT, and other persons employed or utilized by the CONSULTANT, 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 of this Contract.

8.18 CONFLICT OF INTEREST.

The CONSULTANT 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 of Florida Statutes, and the Palm Beach County Code of Ethics. The CONSULTANT further represents that no person having any such conflict of interest shall be employed for said performance of services. CONSULTANT shall provide COUNTY with an executed Conflict of Interest Disclosure Form, attached as **Exhibit E** and incorporated herein.

The CONSULTANT 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 CONSULTANT'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 CONSULTANT 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 CONSULTANT. The COUNTY agrees to notify the CONSULTANT of its opinion by certified mail within thirty (30) days of receipt of notification by the CONSULTANT. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONSULTANT, the COUNTY shall so state in the notification and the CONSULTANT 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 CONSULTANT under the terms of this Contract.

8.19 EXCUSABLE DELAYS.

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

Upon the CONSULTANT's request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if in the opinion of the COUNTY the CONSULTANT's failure to perform was without it or its subcontractors fault or negligence, the 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.

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8.20 ARREARS.

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

8.21 NOTICES.

All notices required in this Contract if sent to the COUNTY shall be mailed to:

Fernando DelDago, Director  
PBC Capital Improvements Division  
2633 Vista Parkway  
West Palm Beach, FL 33411-5604

with copy to:

Audrey Wolf, Director  
PBC Facilities Development and Operations  
2633 Vista Parkway  
West Palm Beach, FL 33411-5603

AND

County Attorney's Office  
301 N. Olive Avenue, 6<sup>th</sup> Floor  
West Palm Beach, FL 33401

and if sent to the CONSULTANT shall be mailed to:

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

8.22 SEVERABILITY.

If any provision(s), or portion(s) of a provision(s) of this Contract, or the application thereof to any person or circumstances shall, to any extent, be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provision(s), or part of the provision(s), shall not in any way be affected or impaired thereby; and if possible the invalid, illegal, or unenforceable provision shall be interpreted to the fullest extent possible to be enforceable and to give effect to the intent manifested by the provision(s), or

portion(s) thereof, held invalid, illegal or unenforceable.

8.23 ENTIRETY OF CONTRACTUAL AGREEMENT.

8.23.1 Entire Agreement. The COUNTY and the CONSULTANT 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.

8.23.2 Exhibits. This Contract includes the following exhibits, which are attached hereto and made a part hereof:

- Exhibit A** - Affirmative Procurement Initiatives (APIs)
- Exhibit B** - Scope of Work and Fee
- Exhibit C** - EBO Schedules 1 and 2
- Exhibit D** - Insurance Certificates
- Exhibit E** - Conflict of Interest Disclosure Form

8.24 SUCCESSORS AND ASSIGNS.

The COUNTY and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Neither the COUNTY nor the CONSULTANT shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONSULTANT.

8.25 PUBLIC ENTITY CRIMES.

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

8.26 OFFICE OF THE INSPECTOR GENERAL.

Palm Beach County has established the Office of the Inspector General, 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 audit, investigate, monitor, and inspect the activities of the CONSULTANT, its officers, agents, employees, and

lobbyists in order to ensure compliance with contract specifications 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.

8.27 SCRUTINIZED COMPANIES.

8.27.1 As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, the CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants 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.

8.27.2 **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 CONSULTANT certifies that it, its affiliates, suppliers, subcontractors and consultants 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.

8.27.3 If the County determines, using credible information available to the public, that a false certification has been submitted by CONSULTANT, 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.

8.28 COMPLIANCE WITH LAWS AND REGULATIONS.

The CONSULTANT shall comply with all laws, policies and procedures, resolutions, ordinances and regulations in effect during the performance of the Contract and applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. CONSULTANT 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 under this Contract.

8.29 NO THIRD PARTY BENEFICIARY.

Except as specifically and expressly provided for herein, 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 any employees of the COUNTY and the CONSULTANT.



8.30 ACCESS AND AUDITS.

The CONSULTANT shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work under this Contract for at least three (3) years after completion or termination of this Contract. Upon ten (10) business days' prior written notice to CONSULTANT, 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 CONSULTANT's place of business.

8.31 EFFECTIVE DATE.

This Contract is expressly contingent upon the approval of the Palm Beach County Board of County Commissioners and shall become effective only when signed by all parties and approved by the Palm Beach County Board of County Commissioners.

REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY

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 CONSULTANT has hereunto set its hand the day and year above written.

ATTEST:  
SHARON R. BOCK, Clerk and Comptroller

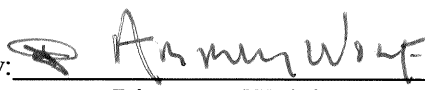
PALM BEACH COUNTY BOARD OF  
COUNTY COMMISSIONERS

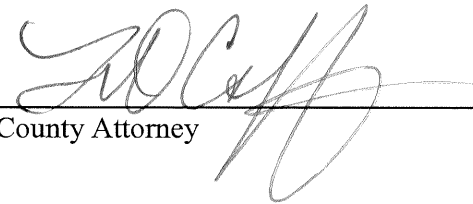
BY: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Mack Bernard, Mayor

APPROVED AS TO TERMS AND  
AND CONDITIONS

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

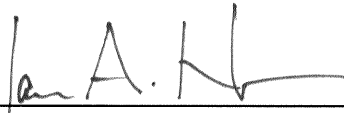
By:  \_\_\_\_\_  
Director – FD&O


By:  \_\_\_\_\_  
County Attorney

WITNESS:

PGAL \_\_\_\_\_:  
CONSULTANT

 \_\_\_\_\_  
Signature

 \_\_\_\_\_  
Signature

 \_\_\_\_\_  
Name (type or print)

IAN A. NESTLER \_\_\_\_\_  
Name (type or print)

EXECUTIVE VP \_\_\_\_\_  
Title

## EXHIBIT A

### AFFIRMATIVE PROCUREMENT INITIATIVES ("API"s) FOR CCNA PROFESSIONAL SERVICES CONTRACTS

The API(s) approved for this contract are selected below by . Capitalized terms are defined as set forth in the EBO Ordinance. Also, see the EBO Ordinance and Countywide PPM CW-O-043 for further information on APIs.

Waiver

The Office of EBO has granted a waiver of the EBO Program API(s) for this contract.

Evaluation Preference for New SBE Prime Respondents for RFPs

           points (Up to 15 percent of total evaluation points) have been allocated for NEW SBE Prime respondents for this Contract.

Up to 15 percent (15%) of the total number of evaluation points allocated for selection of a Professional Services firm by the County shall be reserved for SBE prime respondents that have only received their first contract award with the County within the past year, or have not yet received a cumulative total of \$1,000,000 or more in payments from the County for Professional Services rendered (whichever period of time is longer).

SBE Evaluation Preference for SBE Prime Respondents (Contracts less than \$500,000)

           Points (up to 15% of the total evaluation points) are available to SBE prime respondents

An SBE Evaluation Preference of up to 15 percent (15%) of the total number of available evaluation points for scoring of proposals shall be reserved for SBE prime bidders on County Professional Services Contracts valued at less than \$500,000.

SBE Evaluation Preference for SBE Participation (Contracts \$500,000 or greater)

15% (0 to 15%) total evaluation points shall be awarded based on the level of SBE dollar participation committed to on the prime respondent/bidder's team.

Evaluation Preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals to those firms responding to Professional Services Solicitations valued at \$500,000 or greater. The sliding scale shall be based upon the relative level of SBE dollar participation that has been committed to on the prime respondent/bidder's team (e.g., zero SBE participation on a prime respondent/bidder's team shall yield zero evaluation points, whereas the maximum SBE participation among all prime bidders, at the prime Contract and subcontract levels combined, shall yield award of fifteen Evaluation Preference points out of 100; and a prime respondent/bidder's team that achieves only half as many dollars in SBE participation as the firm with the greatest SBE dollar participation at the prime Contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100.

DW

**SBE Subcontracting Goals for Professional Services**

**A 20% SBE subcontracting participation goal is established for this Contract.**

A minimum mandatory goal of 20% of the total estimated dollar value of the Contract shall be subcontracted to SBEs, however the Office of EBO shall reduce or waive this goal when there is inadequate availability of SBE prime and / or subcontractor firms.

The consultant has committed to 32% subconsultants that are S/W/MBE's

**M/WBE Evaluation Preferences for M/WBE Participation**

                     (0 to 15%) evaluation total points shall be awarded based on the level of M/WBE dollar participation that has been committed to on the prime respondent/bidder's team.

Evaluation Preference points shall be awarded on a sliding scale from zero up to 15 percent (15%) of the total available evaluation points for scoring of proposals based upon the relative level of M/WBE dollar participation that has been committed to on the prime respondent/bidder's team (e.g., zero M/WBE participation on a prime respondent/bidder's team shall yield zero evaluation points, whereas the proposal from the prime respondent/bidder that proposes achieving the maximum M/WBE participation among all prime respondent/bidders, at the prime Contract and subcontract levels combined, shall yield award of fifteen Evaluation Preference points out of 100 to that bidder; and a prime respondent/bidder's team that achieves only half as many dollars in M/WBE participation as the firm with the greatest M/WBE dollar participation at the prime Contract and subcontract levels combined shall be awarded 7.5 evaluation points out of 100).

**Explanation of GSC's reasons for applying this API:**

**M/WBE Subcontracting Goals for Professional Services**

                     (Up to 40%) of this Contract shall be subcontracted to certified M/WBEs owned by African American, Hispanic American, Asian American, Native American, and non-minority women persons.

Up to 40% of this Contract as noted above, shall be subcontracted to eligible M/WBEs (i.e., certified M/WBE firms owned by African American, Hispanic American, Asian American, Native American, and non-minority women persons). However the Office of EBO shall reduce or waive this goal when there is inadequate availability of M/WBE prime and / or subcontractor firms.

**Explanation of GSC's reasons for applying this API:**

**M/WBE Segmented Subcontracting Goals for Professional Services**

\_\_\_\_\_ % of the M/WBE subcontracting goal shall be achieved through the utilization of  African American,  Hispanic American,  Asian American,  Native American,  Non-minority women persons (Check applicable).\*

M/WBE Segmented Subcontracting Goals are established where an overall combined M/WBE goal is accompanied by subsets of one or more smaller goals that specifically target the participation of a particular segment of Minority Group Member segments or the WBE segment based upon that segment's relative availability. Such segmented goals shall specifically target the participation of a particular segment of business enterprises owned and controlled by women or certain Minority Group Members (e.g., African-Americans) based upon relative availability, as well as the existence of consistently and significantly greater patterns of underutilization and disparity within an industry as compared to other gender and Minority Group Member categories of M/WBEs. (For example, if an overall M/WBE subcontracting goal is set at 46% on a given Contract, the segmented subcontracting goal may require that at least 10% of that 46% shall be satisfied through the utilization of African American subcontractors.) The Office of EBO shall reduce or waive this goal when there is inadequate availability of M/WBE prime and / or subcontractor firms.

**Explanation of GSC's reasons for applying this API:**

## **EXHIBIT B**

### **SCOPE OF WORK & FEE**

To be determined after completion of Expanded Program Phase (Comparative Study) – CSA #1

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## **EXHIBIT C**

### **EBO SCHEDULES 1 & 2**

To be provided with Exhibit A after completion of Expanded Program Phase (Comparative Study) – CSA #1

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**EXHIBIT D**

INSURANCE CERTIFICATES

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CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: USI Southwest, 9811 Katy Freeway, Suite 500, Houston, TX 77024, 713 490-4600. CONTACT NAME: Shelly Brandman, PHONE: 713 490-4600, FAX: 713 490-4700, E-MAIL ADDRESS: shelly.brandman@usi.com. INSURER(S) AFFORDING COVERAGE: INSURER A: Continental Casualty Company (20443), INSURER B: Continental Insurance Company (35289), INSURER C: American Casualty Company of Reading PA (20427), INSURER D: Transportation Insurance Company (20494), INSURER E: Berkley Insurance Company (32603), INSURER F: (blank).

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

Table with columns: INSR LTR, TYPE OF INSURANCE, ADDL INSR, SUBR WVD, POLICY NUMBER, POLICY EFF (MM/DD/YYYY), POLICY EXP (MM/DD/YYYY), LIMITS. Rows include: A COMMERCIAL GENERAL LIABILITY (6043241375), B AUTOMOBILE LIABILITY (6043241330), B UMBRELLA LIAB (6043241361), C WORKERS COMPENSATION AND EMPLOYERS' LIABILITY (643241344), E Professional Liability (AEC902230604).

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) California Workers Compensation D 643241358 Eff Date: 08/12/2018 Exp Date: 08/12/2019 Each Accident Limit: \$1,000,000 Policy Limit: \$1,000,000 Each Employee Limit: \$1,000,000 (See Attached Descriptions)

CERTIFICATE HOLDER: Palm Beach County Board of County Commissioners, c/o Capital Improvements Division, 2633 Vista Parkway, West Palm Beach, FL 33411-5604. CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE: [Signature]

## DESCRIPTIONS (Continued from Page 1)

The General Liability and Automobile Liability policies include an automatic Additional Insured endorsement that provides Additional Insured status to the Certificate Holder only when there is a written contract that requires such status, and only with regard to work performed on behalf of the named insured.

Coverage provided on the General Liability is primary and non-contributory if required by written contract executed prior to a loss.

The General Liability, Automobile, Workers Compensation and Professional Liability policies provide a Blanket Waiver of Subrogation when required by written contract.

The Umbrella Liability policy follows form to the underlying General Liability, Automobile and Workers Compensation policies.

The General Liability, Automobile, Workers Compensation, Umbrella Liability and Professional Liability policies include an endorsement providing that 30 days notice of cancellation for reasons other than non payment of premium and 10 days notice of cancellation for non-payment of premium will be given to the Certificate Holder by the Insurance Carrier, if required by written contract.

Additional Insureds: Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, Agents and Architect.

**EXHIBIT E**

CONFLICT OF INTEREST DISCLOSURE FORM



**CONFLICT OF INTEREST DISCLOSURE FORM**

Project Name: Animal Care & Control Renewal/Replacement  
Project Number: 19201  
Contract/CSA/Supplement Number: \_\_\_\_\_

CONSULTANT represents that it presently has no interest, either direct or indirect, which would or could conflict in any manner with the performance of services for the County, except as follows:

N/A

(Attach additional sheets as needed.)

CONSULTANT further represents that no person having any interest shall be employed for said performance. By signing below, CONSULTANT certifies that the information contained herein is true and correct and constitutes all current potential conflicts of interest which may influence or appear to influence CONSULTANT'S judgment or quality of services being provided to the County.

CONSULTANT shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest that may arise in the future through any prospective business association, interest or other circumstance which may influence or appear to influence CONSULTANT'S judgment or quality of services being provided to the County. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that CONSULTANT 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 an unacceptable conflict of interest if entered into by the CONSULTANT.

If, in the sole opinion of the COUNTY, the prospective business association, interest or circumstance of CONSULTANT would constitute an unacceptable conflict of interest to the COUNTY, the COUNTY shall so state in the notification and the CONSULTANT shall not enter into said association, interest or circumstance.

THIS DISCLOSURE is submitted by IAN Nestler, as  
(Name of Individual)

Executive Vice President, of PGAL, INC.  
(Title/Position) (Firm Name of Consultant)

who hereby certifies that the information stated above is true and correct. Further, it is hereby acknowledged that any misrepresentation by the Consultant on this Disclosure is considered an unethical business practice and is grounds for sanctions against future County business with the Consultant.

[Signature]  
(Signature)

6/4/19  
(Date)