

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date:	September 13, 2022	<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Regular
		<input type="checkbox"/> Ordinance	<input type="checkbox"/> Public Hearing
Department:	Housing & Economic Development		


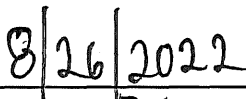
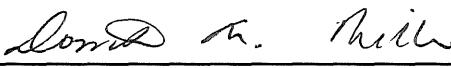
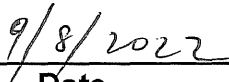
I. EXECUTIVE BRIEF

**Motion and Title:** Staff recommends motion to approve: an Agreement with the Florida Atlantic University Board of Trustees (FAU) in the amount of \$50,000 for the period October 1, 2022 to September 30, 2023.

**Summary:** This Agreement will fund operational expenses to support the Florida Atlantic University Tech Runway Program located at their Palm Beach County Boca Raton and Jupiter campuses. The Program facilitates venture capitalist investment in business incubation and acceleration. FAU will also be required to: host at least two (2) educational seminars for Tech Runway entrepreneurs on FAU Jupiter campus or greater Jupiter area, provide ten (10) student internships, arrange two (2) introductory meetings for potential angel investors seeking investment funds for early-stage ventures, and create at least five (5) new permanent full-time equivalent jobs in Palm Beach County. Funding for this Agreement will consist of \$50,000 in Ad Valorem Funds. These are County Ad Valorem funds. Countywide (HJF)

**Background and Justification:** Florida Atlantic University Tech Runway (FAUTR) is a program administered by FAU that consists of a 28,000 square-foot facility that provides incubator workspace at the Florida Atlantic University, Boca Raton Campus. It also provides mentoring, education seed grants, and introductions to investors to aid entrepreneurs and small developing companies that create jobs and provide internships to Florida Atlantic University students. The public/private partnership with FAUTR has been ongoing since 2018. Since its inception in 2014, FAUTR has supported over 100 new and early stage companies creating jobs and providing internship opportunities. FAUTR received \$50,000 in Ad Valorem funds during Fiscal Year 2021/2022. The Agreement Deliverables for Fiscal Year 2022/2023 are consistent with the previous Fiscal Year 2021/2022 and FAUTR is currently on target to meet the proposed deliverables for the new Fiscal Year 2022/2023.

**Attachment(s):**  
1 Agreement with FAU Board of Trustees

Recommended By:		
	Department Director	Date
Approved By:		
	Assistant County Administrator	Date

## II. FISCAL IMPACT ANALYSIS

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

Fiscal Years	2023	2024	2025	2026	2027
Grant Expenditures	\$50,000				
Operating Costs					
External Revenues					
Program Income					
In-Kind Match (County)					
NET FISCAL IMPACT	\$50,000				

# ADDITIONAL FTE POSITIONS (Cumulative)	-0-				
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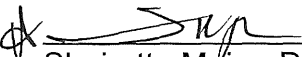
Is Item Included In Proposed Budget? Yes   X   No         
Does this Item include the use of Federal funds? Yes   X   No       

Budget Account No.:

Fund 1539 Dept. 143 Unit 1173 Object 8201 Program Code/Period N/A

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

Approval of this agenda item will allocate \$50,000 in General Fund Ad Valorem dollars.

C. Departmental Fiscal Review:   
Shairette Major, Division Director II

## III. REVIEW COMMENTS

### A. OFMB Fiscal and/or Contract Development and Control Comments:

 8/30/22       9/17/22  
OFMB      JA 8/30      ESW 8/30/22      Contract Development and Control

### B. Legal Sufficiency:

 9/8/22  
Assistant County Attorney

### C. Other Department Review:

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

**INTERLOCAL AGREEMENT BETWEEN PALM BEACH COUNTY**  
**AND**  
**FLORIDA ATLANTIC UNIVERSITY BOARD OF TRUSTEES**

**THIS AGREEMENT**, (the "Agreement") is made as of **October 1, 2022**, by and between **Palm Beach County** hereinafter referred to as "**COUNTY**", a political subdivision of the State of Florida, and **Florida Atlantic University Board of Trustees**, a Public Body Corporate, of the State of Florida hereinafter the "**AGENCY**", having its principal office at **901 NW 35th Street, Boca Raton, FL 33431** and whose Federal I.D. is 65-0385507

**WHEREAS**, the AGENCY is a public body corporate of the State of Florida operating within Palm Beach County; and

**WHEREAS**, AGENCY has established the Florida Atlantic University Tech Runway program ("FAUTR") in Palm Beach County to facilitate venture incubation and business acceleration consistent with the goal of creating the largest and best tech hub and commercialization center on the east coast; and

**WHEREAS**, COUNTY wishes to provide funding to facilitate AGENCY's provision of the activities specified in Exhibit "A" of this Agreement, as such activities serve a County public purpose in furthering the economic development interests of the County; and

**WHEREAS**, COUNTY desires to engage AGENCY to implement such undertakings, and, pursuant to the terms of this Agreement, shall make available funding not to exceed **Fifty Thousand (\$50,000.00)** Dollars ("Grant Funds") to the AGENCY in exchange for said services; and

**WHEREAS**, the COUNTY finds that providing the Grant Funds to the AGENCY for the purposes set forth herein serves a local public purpose;

**NOW, THEREFORE**, pursuant to all authorities granted by law, including, but not limited to, Section 163.01, Florida Statutes, knowns as the "Florida Inter-local Cooperation Act of 1969," and in consideration of the mutual promises contained herein, the COUNTY and the AGENCY agree as follows:

**ARTICLE 1 – SERVICES**

The AGENCY's responsibility under this Agreement is to provide services for the creation and development of emerging technology-based businesses through the Research Park at Florida Atlantic University's Technology Business Incubator (TBI), as more specifically set forth in the Scope of Work detailed in Exhibit "A".

The COUNTY's representative/liaison during the performance of this Agreement shall be Sherry L. Howard, Deputy Director, Department of Housing & Economic Development (DHED), telephone number: (561) 233-3653, email showard@pbcgov.org.

The AGENCY's representative/liaison during the performance of this Agreement shall be Nancy Thoman, Director of Sponsored Programs, Florida Atlantic University Division of Research, telephone number: Phone: 561-297-4237, email: sponsoredprograms@fau.edu.

**ARTICLE 2 – SCHEDULE**

The AGENCY shall commence services on **October 1, 2022** and complete all services by **September 30, 2023**. ("Grant Period")

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

**ARTICLE 3 – PAYMENTS TO AGENCY**

- A. The total amount to be paid by the COUNTY under this Agreement for all services and materials shall not exceed a total Agreement amount of Grant Funds. The AGENCY shall notify the COUNTY's representative in writing when 90% of the "not to exceed amount" has been reached. During the term of the Agreement, the AGENCY will bill the COUNTY on a monthly basis in **eleven (11) equal invoices of Four Thousand one Hundred Sixty-Six dollars and Sixty-Six cents (\$4,166.66) and one (1) Final invoice of Four Thousand One Hundred Sixty-Six dollars and Seventy-Four cents (\$4,166.74)**.. Invoices shall be accompanied by monthly performance reports as detailed in Exhibit "A".
- B. Invoices received from the AGENCY pursuant to this Agreement will be reviewed and approved by the COUNTY's representative, to verify that services have been rendered in conformity with the Agreement. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval.
- C. "Out-of-pocket" expenses "Out-of-pocket" expenses will not be reimbursed.
- D. Final Invoice: In order for both parties herein to close their books and records, the AGENCY will clearly state "Final invoice" on the AGENCY's final/last billing to the COUNTY. This shall constitute AGENCY's certification that all services have been properly performed and all charges and costs have been invoiced to Palm Beach County. Any other charges not properly included on this final invoice are waived by the AGENCY.
- E. In order to do business with Palm Beach County, Agencies are required to create a Vendor Registration Account OR activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service (VSS) system, which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. If AGENCY intends to use sub-consultants, AGENCY must also ensure that all sub-consultants are registered as consultants in VSS. All subcontractor agreements must include a contractual provision requiring that the sub-consultant register in VSS. COUNTY will not finalize a contract award until the COUNTY has verified that the AGENCY and all of its sub-consultants are registered in VSS.

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

Signature of this Agreement by the AGENCY shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged the AGENCY'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 Article - 4 within three (3) years following final payment.

**ARTICLE 5 – TERMINATION**

This Agreement may be terminated as provided herein or in the attached Exhibit "A". Unless the AGENCY is in breach of this Agreement, the AGENCY shall be paid for services rendered to the COUNTY's satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the AGENCY shall:

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

**ARTICLE 6 – PERSONNEL**

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

All of the services required hereunder shall be performed by the AGENCY 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 AGENCY's key personnel, as may be listed in Exhibit "A", must be made known to the COUNTY's representative and written approval must be granted by the COUNTY's representative before said change or substitution can become effective.

The AGENCY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. All of the AGENCY's personnel (and all Subcontractors), while on COUNTY premises, will comply with all COUNTY requirements governing conduct, safety and security.

#### **ARTICLE 7 – SUBCONTRACTING**

The COUNTY reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. The AGENCY is encouraged to seek additional small business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, the AGENCY shall promptly do so, subject to acceptance of the new subcontractor by the COUNTY.

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

The COUNTY is exempt from payment of Florida State Sales and Use Taxes. The COUNTY will sign an exemption certificate submitted by the AGENCY. The AGENCY shall not be exempted from paying sales tax to its suppliers for materials used to fulfill contractual obligations with the COUNTY, nor is the AGENCY authorized to use the COUNTY's Tax Exemption Number in securing such materials. The AGENCY shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes, and benefits with respect to this Agreement.

#### **ARTICLE 9 – AVAILABILITY OF FUNDS**

The COUNTY's performance and obligation to pay under this Agreement for subsequent fiscal years is contingent upon annual appropriations for its purpose by the Board of County Commissioners. In addition, this Agreement and all obligations of COUNTY hereunder are subject to and contingent upon receipt of AD Valorem funding for the purposes provided for herein. Nothing in this Agreement shall obligate the COUNTY to provide funding from any other source, including, but not limited to, funds from the COUNTY's annual budget and appropriations.

#### **ARTICLE 10 – INSURANCE**

Without waiving the right to sovereign immunity as provided by f.s.768.28, AGENCY acknowledges to be self-insured for liabilities under Florida sovereign immunity statutes with a statutory cap of \$200,000 per person and \$300,000 per occurrence; or such monetary waiver limits that may change and be set forth by the legislature.

AGENCY agrees to maintain or to be self-insured for Workers' Compensation & Employer's Liability insurance in accordance with Chapter 440 of the Florida Statutes.

When requested, AGENCY shall agree to provide an affidavit or Certificate of Insurance evidencing insurance, self-insurance and/or sovereign immunity status, which COUNTY agrees to recognize as acceptable for the above-mentioned coverage. Compliance with the foregoing requirements shall not relieve AGENCY of its liability and obligations under this Agreement.

#### **ARTICLE 11 – INDEMNIFICATION**

Agency is a state agency and agrees to be fully responsible to the extent provided by 768.28 Fla. Stat., for its negligent acts or omissions which result in claims or suits against COUNTY, AGENCY, its agents, officers and employees acting within the course and scope of their employment. AGENCY agrees to be liable for any damages proximately caused by those negligent acts or omissions. Nothing herein is intended to be a waiver of sovereign immunity nor consent by AGENCY to be sued by a third party.

#### **ARTICLE 12 – SUCCESSORS AND ASSIGNS**

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

#### **ARTICLE 13 – REMEDIES/NO THIRD PARTY BENEFICIARIES**

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

No provision of this Agreement 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 Agreement, including but not limited to any citizen or employees of the COUNTY and/or AGENCY. Moreover, if the AGENCY fails to comply with any of the provisions of this Agreement, the COUNTY may exercise any and all legal rights and remedies including, without limitation, withholding, temporarily or permanently, all, or any, unpaid portion of the Grant Funds upon giving written notice to the AGENCY, terminating this Agreement, and/or demanding a refund of the Grant Funds, which shall be reimbursed upon demand. In the event of AGENCY's failure to comply with any provisions of this Agreement, the COUNTY shall have no further funding obligation to the AGENCY under this Agreement.

**ARTICLE 14 – CONFLICT OF INTEREST**

The AGENCY represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes, the Palm Beach County Code of Ethics, or any other applicable law, including, but not limited to, any U.S. HUD regulations relating to conflict of interest. The AGENCY further represents that no person having any such conflict of interest shall be employed for said performance of services.

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

**ARTICLE 15 – EXCUSABLE DELAYS**

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

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

**ARTICLE 16 – ARREARS**

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



**ARTICLE 17 – DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

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

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

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

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

**ARTICLE 18 – INDEPENDENT CONTRACTOR RELATIONSHIP**

The AGENCY is, and shall be, in the performance of all work services and activities under this Agreement, an Independent contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the AGENCY's sole direction, supervision, and control.

The AGENCY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the AGENCY'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 AGENCY does not have the power or authority to bind the COUNTY in any promise, agreement or representation.

**ARTICLE 19 – CONTINGENT FEES**

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

**ARTICLE 20 – ACCESS AND AUDITS**

The AGENCY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least five (5) years after completion or termination of this Agreement. 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 AGENCY's place of business.

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code, Section 2-421-2-440, as may be amended. The Inspector General's authority includes but is not limited to the power to review past, present and proposed COUNTY contracts, transactions, accounts and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the AGENCY, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-421-2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

**ARTICLE 21 – NONDISCRIMINATION**

The COUNTY is committed to assuring equal opportunity in the award of grants and contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the AGENCY warrants and represents that throughout the term of the Agreement, 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 this Agreement.

As a condition of entering into this Agreement, the AGENCY 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 AGENCY 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 AGENCY retaliate against any person for reporting instances of such discrimination.

The AGENCY 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 AGENCY understands and agrees that a material violation of this clause shall be considered a material breach of this Agreement and may result in termination of this Agreement, 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. AGENCY shall include this language in its subcontracts.

#### **ARTICLE 22 – AUTHORITY TO PRACTICE**

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

#### **ARTICLE 23 – SEVERABILITY**

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

#### **ARTICLE 24 – PUBLIC ENTITY CRIMES**

As provided in F.S. 287.132-133, by entering into this Agreement or performing any work in furtherance hereof, the AGENCY 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).

#### **ARTICLE 25 – MODIFICATIONS OF WORK**

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

If the COUNTY so instructs in writing, the AGENCY shall suspend work on that portion of the Scope of Work affected by a contemplated change, pending the COUNTY's decision to proceed with the change. If the COUNTY elects to make the change, the COUNTY shall initiate an Agreement Amendment and the AGENCY shall not commence work on any such change until such written amendment is signed by the AGENCY and approved and executed on behalf of Palm Beach County.

**ARTICLE 26 – NOTICE**

All notices required in this Agreement shall be sent by certified mail, return receipt requested, hand delivery or other delivery service requiring signed acceptance.

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

**Sherry Howard, Deputy Director**  
Department of Economic Development  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406

With a copy to:

**Howard J. Falcon III, Chief Assistant County Attorney**  
County Attorney's Office  
301 N. Olive Ave, (6<sup>th</sup> floor)  
West Palm Beach, FL 33401

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

**Nancy Thoman, Director of Sponsored Programs**  
Florida Atlantic University Division of Research  
777 Glades Road, Building 104, Room 313  
Boca Raton, FL 33431

With a Copy to:

**Jessica Beaver, Associate Director**  
Florida Atlantic University Tech Runway  
901 NW 35<sup>th</sup> Street  
Boca Raton, FL 33431

**ARTICLE 27 – ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the AGENCY agree that this Agreement 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 Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto in accordance with Article 25 - Modifications of Work.

**ARTICLE 28 – CRIMINAL HISTORY RECORDS CHECK**

The AGENCY, AGENCY's employees, subcontractors of AGENCY and employees of subcontractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolutions R2013-1470 and R2015-0572, as amended. The AGENCY is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the AGENCY acknowledges that the Grant Funds include 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 Agreement may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and above referenced Resolutions, as amended. COUNTY staff representing the COUNTY department will contact the AGENCY(S) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The AGENCY shall make every effort to collect the badges of its employees and its subcontractors' employees upon conclusion of the contract and return them to the COUNTY. If the AGENCY or its subcontractor(s) terminates an employee who has been issued a badge, the AGENCY must notify the COUNTY within two (2) hours. At the time of termination, the AGENCY shall retrieve the badge and shall return it to the COUNTY in a timely manner.

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

**ARTICLE 29 – REGULATIONS; LICENSING REQUIREMENTS**

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

**ARTICLE 30 – SCRUTINIZED COMPANIES**

- A. As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the AGENCY 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. Pursuant to F.S. 287.135(3)(b), if AGENCY is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Agreement may be terminated at the option of the COUNTY.

- B. **When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the AGENCY 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.

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

## **ARTICLE 31 – PUBLIC RECORDS**

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

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

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

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

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

#### **ARTICLE 32 – COUNTERPARTS**

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

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

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

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

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

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

#### **ARTICLE 34 – INCORPORATION BY REFERENCE**

Exhibits and associated Schedules attached hereto and referenced herein shall be deemed to be incorporated into this Agreement by reference. To the extent of a conflict between the terms of this Agreement and any Exhibit, the terms of the Agreement shall govern.

#### **ARTICLE 35 – RECOGNITION**

The AGENCY shall include a reference to the financial support herein provided by the COUNTY in all publications, publicity events, and provide the COUNTY copies of all such publications. The AGENCY shall also notify the COUNTY prior to any ceremonies or events relating to facilities or items funded by this Agreement and, as part of the consideration for this Agreement, shall provide to COUNTY all required admissions to said events to allow for further distribution to the Mayor, County Commissioners, County Administration, Department Staff or other County Official(s). In addition, the AGENCY will make good faith efforts to recognize the COUNTY's support for all activities made possible with funds made available under this Agreement.

#### **ARTICLE 36 – REPORTS**


- A. In addition to all other reports required by this Agreement and/or applicable law, in compliance with Section 125.045(4), Florida Statutes, the AGENCY shall submit an annual report to the COUNTY detailing how the COUNTY funds were spent and the results of the AGENCY's efforts on behalf of the COUNTY. The annual report shall cover the period from **October 1, through September 30**, of the reporting year and be due to the COUNTY **no later than December 31**, following the reporting year. Once the AGENCY has submitted the report to the COUNTY, the COUNTY is required to submit the report to the Office of Economic & Demographic Research by **January 15<sup>th</sup> of each year** and post a copy of said report of the COUNTY'S public website.
- B. The AGENCY shall provide the COUNTY with its independent audit of the immediately preceding fiscal year no later than **January 31, of each year**.



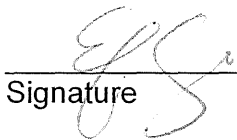
IN WITNESS WHEREOF, AGENCY has hereunto set its hand the day and year above written.

WITNESS:

AGENCY:

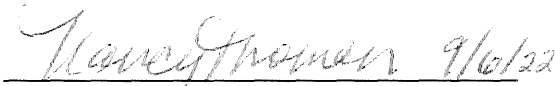
  
Signature

Patrice Cochran, Assistant Director  
Name (type or print)

  
Signature

Efrain E. Arroyo, Contract Manager  
Name (type or print)

FLORIDA ATLANTIC UNIVERSITY  
BOARD OF TRUSTEES

  
Nancy Thoman, Director  
Office of Sponsored Programs

(Corporate Seal)



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

**ATTEST:**  
**JOSEPH ABRUZZO**  
**CLERK AND COMPTROLLER**

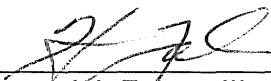
**PALM BEACH COUNTY, FLORIDA, a**  
**Political Subdivision of the State of Florida**  
**BOARD OF COUNTY COMMISSIONERS**

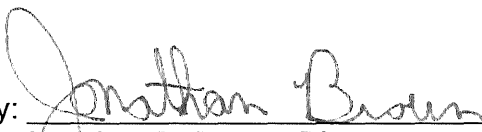
By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Robert S. Weinroth, Mayor

**APPROVED AS TO FORM**  
**AND LEGAL SUFFICIENCY**

**APPROVED AS TO TERMS**  
**AND CONDITIONS**

By:  \_\_\_\_\_  
Howard J. Falcon III  
Chief Assistant County Attorney

By:  \_\_\_\_\_  
Jonathan B. Brown, Director  
Dept. of Housing & Economic Development

**EXHIBIT “A”**

**SCOPE OF WORK**

**ADDITIONAL REFERENCEDOCUMENTS**

This Agreement is subject to various regulations and requirements, which are included, but not limited to the following documents:

- A. Title VI of the Civil Rights Act of 1964, Age Discrimination Act of 1975, and Title II of the Americans with Disabilities Act of 1990;
- B. The Drug-Free Workplace Act of 1988, as amended;
- C. The AGENCY's Policies and Procedures Manuals, and Job descriptions;
- D. The AGENCY's Articles of Incorporation and Bylaws;
- E. The AGENCY's Certificate of Insurance;
- F. Current list of the AGENCY's Officers and members of the Board of Directors;
- G. Florida Statute 112.061, relating to per diem, travel; and,
- H. Section 448.095, Florida Statutes (F.S.) (E-Verify): <https://www.e-verify.gov/>

All of these documents shall be maintained on file by the AGENCY, including an original of this Agreement, including its Exhibits, and all amendments thereto.

**The AGENCY agrees to:**

**A. PROJECT SCOPE**

The Florida Atlantic University Tech Runways program (“FAUTR”) was established to facilitate venture incubation and business acceleration consistent with the goal of creating the largest and best tech hub and commercialization center on the east coast. Pursuant to the terms of this Agreement, the AGENCY shall be reimbursed for services to assist those businesses. Services include:

- a. Providing Palm Beach County businesses with internships;
- b. Hosting educational seminars;
- c. Arranging introductory meetings between potential angel investors/venture capitalists and early-stage ventures (companies); and,
- d. Assisting the Palm Beach County businesses in hiring qualified candidates.

**The AGENCY further agrees that DHED shall be the final arbiter on the AGENCY's compliance with the above.**

**B. DELIVERABLES**

Subsequent to the effective date of this Agreement and within the Agreement period, the AGENCY shall as a result of its project scope achieve the following deliverables:

- a. Job Creation: Create a minimum of five (5) permanent full-time equivalent (FTE) jobs, in Palm Beach County. Internships and temporary jobs do not count towards job creation requirements. **To be counted towards the job creation requirement, a newly created job must be maintained for a period of no less than one (1) year from the date of the initial hire.** Jobs created or retained through this Agreement cannot be counted or used toward receiving any additional Palm Beach County grants.

If the minimum FTE job requirement has not been met, or falls below the minimum, as required by this Agreement, the AGENCY shall be considered by the COUNTY to have breached this Agreement and the COUNTY shall have the right to terminate the Agreement.

In the event of termination or breach of this Agreement, the AGENCY agrees that it shall, within sixty (60) days of the date of termination or breach of the Agreement, or, in the case of not maintaining the job for the required time, the date of the notice of noncompliance, make restitution to the COUNTY the per job grant award **(\$10,000 per job)** paid by the COUNTY to the AGENCY for each position not created and maintained as required by this Agreement.

**The provisions of this section shall survive the expiration of this Agreement.**

- b. Internships: The AGENCY will provide ten (10) internships. These internships will provide exposure for students, grad students, recent FAU alumni or Palm Beach County residents to career development opportunities in either (a) early-stage technology-based companies, (b) the early-stage investor ecosystem, or (c) entrepreneurial management generally.
- c. Introductory Meetings with Angel Investors/Venture Capitalists: The AGENCY will organize and conduct at least two (2) angel investor meetings (including virtually) that facilitate the presentation of investment pitches by early-stage entrepreneurs to a group of angel investors seeking investment opportunities, in qualified early-stage ventures.
- d. Educational Seminars: The AGENCY will host at least two (2) educational seminars (including virtually) for Tech Runway entrepreneurs on the FAU Jupiter campus or within the greater Jupiter area, focused on entrepreneurial management, technology commercialization, life sciences, or early-stage venture financing.

## C. REPORTS

The AGENCY shall provide detailed monthly reports, to include an **Invoice Cover Sheet** (Schedule "I"), and the following information:

- a. An **Economic Development Compliance Table - Record of Full Time Equivalent Jobs Created** (Schedule "II"), to be completed for each company creating a job during the contract period and certified by the employer and the AGENCY.

- b. An **Economic Development Compliance Table – Record of Internship Created** (Schedule “III”), for each employee hired during the contract period, identifying the income at the time of hire and certified by the employer and the AGENCY.
- c. A **Monthly Cumulative Report** (Schedule “IV”) listing the name of the workshop conducted including the date, location and number of attendees with a copy of the agenda and sign-in sheet.
- d. All reports shall be submitted to the COUNTY, postmarked no later than fourteen (14) days after the end of the reporting period, as outlined in the Exhibits contained herein. The reports shall be to the satisfaction of the COUNTY and be subject to verification. The COUNTY reserves the right to request additional reports from the AGENCY, for any previous periods funded by the COUNTY upon ten (10) business days’ notice. The final report produced and submitted by the AGENCY will reflect quarterly and cumulative figures.
- e. The AGENCY agrees that DHED shall carry out at least one annual monitoring and evaluation activity, as determined necessary by DHED, during the term of this Agreement. Upon DHED’S request, the AGENCY agrees to furnish and make copies or transcriptions of such records and information, as is determined necessary by DHED. Additionally, the AGENCY shall submit information and status reports required by DHED to enable DHED to evaluate the AGENCY’s progress.
- f. The AGENCY shall allow DHED to monitor the AGENCY on site. Such site visits may be scheduled or unscheduled as determined by DHED.

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SCHEDULE "I"

INVOICE COVER SHEET

USE AGENCY LETTERHEAD STATIONERY

DATE: \_\_\_\_\_

TO: **Sherry Howard, Deputy Director**  
Department of Economic Development  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406

FROM: **Nancy Thoman, Director of Sponsored Programs**  
Florida Atlantic University Division of Research  
777 Glades Road, Building 104, Room 313  
Boca Raton, FL 33431

SUBJECT: **Florida Atlantic University Board of Trustees (FAU Tech Runway)**  
Reimbursement Request No. \_\_\_\_\_  
Agreement No. R-2022- \_\_\_\_\_

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Attached you will find Invoice # \_\_\_\_\_ requesting reimbursement for \$ \_\_\_\_\_. The expenditures for this invoice cover the period of \_\_\_\_\_ through \_\_\_\_\_.  
Additionally, please find the attached back-up original documentation relating to the expenditures being involved.

\_\_\_\_\_  
Nancy Thoman  
Director of Sponsored Programs

**SCHEDULE “II”**

**FAUTR ECONOMIC DEVELOPMENT COMPLIANCE TABLE – RECORD OF FTE\* JOB(S) CREATED**

Month of: \_\_\_\_\_ 202\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Industry Type (NAICS Code): \_\_\_\_\_

#	Job Title	Employee Name	Date Hired	FTE Job(s) (hrs./week)	Employee Zip Code	Hispanic**	Race***
<b>Notes:</b>							
* A full-time equivalent job is working 40 hrs. a week (2,080 hrs. per year).							
** Hispanic (Y) or Non-Hispanic (N).							
** White (W), Black (B), Asian (A), or Other (O).							

**Employer Certification:** I certify that the above referenced job(s) were created through FAUTR during the specified reporting month, based upon actual company records, which will be maintained for monitoring purposes, according to the terms of the FAUTR Agreement with Palm Beach County.

\_\_\_\_\_  
Employer Signature (or designee)      Name (Printed)      Title      Date

**FAU Certification:** I certify that the above referenced job(s) were created through FAUTR during the reporting month, and that records will be maintained for monitoring purposes, according to the terms of the FAU Board of Trustees (Tech Runway) agreement with Palm Beach County.

\_\_\_\_\_  
Jessica Beaver, Associate Director  
FAU Tech Runway (or designee)      Date      Print Name and Title of Designee, if applicable

SCHEDULE “III”

FAUTR ECONOMIC DEVELOPMENT COMPLIANCE TABLE – RECORD OF INTERNSHIP CREATED

Month of: \_\_\_\_\_ 202\_

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

Industry Type (NAICS Code): \_\_\_\_\_

Industry Focus: ☐ a) early stage technically based company; ☐ b) early-stage investor ecosystem; or, ☐ c) entrepreneurial management.

Internship Type: ☐ Student or Grad Student; ☐ FAU Alumni; or, ☐ Palm Beach County Resident

#	Job Title	Intern Name	Date Hired	Length*	Hours/ Week	Intern Zip Code	Hispanic**	Race***
<b>Notes:</b>								
* Indicate # weeks, months or date range.								
** Hispanic (Y) or Non-Hispanic (N).								
*** White (W), Black (B), Asian (A), or Other (O).								

**Employer Certification:** I certify that the above referenced internship(s) were created through FAUTR during the specified reporting month, based upon actual company records, which will be maintained for monitoring purposes, according to the terms of the FAUTR Agreement with Palm Beach County.

\_\_\_\_\_  
Employer Signature (or designee)                      Name (Printed)                      Title                      Date

**FAU Certification:** I certify that the above referenced job(s) were created through FAUTR during the reporting month, and that records will be maintained for monitoring purposes, according to the terms of the FAU Board of Trustees (Tech Runway) agreement with Palm Beach County.

\_\_\_\_\_  
Jessica Beaver, Associate Director  
FAU Tech Runway (or designee)                      Date                      Print Name and Title of Designee, if applicable



**SCHEDULE “IV”**

**MONTHLY CUMULATIVE REPORT**  
(Described in Exhibit “A” C.3.)

Month of \_\_\_\_\_ 20\_\_

**Florida Atlantic University Board of Trustees**

September 6, 2022

Palm Beach County  
Department of Housing &  
Economic Development  
100 Australian Avenue, Suite 500  
West Palm Beach, FL 33406

RE: FAU Agency Seal

To Whom It May Concern,

Please note that Florida Atlantic University Board of Trustees does not have an agency seal. If you should have any questions, please contact me at [nthoman@fau.edu](mailto:nthoman@fau.edu) or 561-297-4237. Thank you.

Sincerely,



Nancy Thoman  
Director, Office of Sponsored Programs  
Division of Research



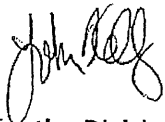
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FLORIDA ATLANTIC  
UNIVERSITY

Office of the President

**MEMORANDUM**

TO: Nancy Thoman, Director, Sponsored Programs

FROM: John Kelly, President 

SUBJECT: Signature Authority for the Division of Research, Office of Sponsored Programs (Contracts and Grants)

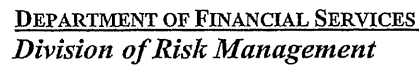
DATE: July 1, 2019

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Pursuant to section 1001.74, Florida Statutes, Florida Atlantic University Regulations 6.002 and 6.003 and Florida Atlantic University Board of Trustees Board Operating Policies and procedures section 4.6, I hereby extend signature authority to you to bind Florida Atlantic University for all Division of Research contracts and grants. You shall have this authority as long as you maintain your employment with Florida Atlantic University as Director of Sponsored Programs. I expect you to exercise this authority in consultation with and under the supervision of the Vice President of Research, or in the absence of a person filling that position, in consultation with me.

This signature authority is to commence on the date noted above and shall supersede all prior delegations of such authority.

cc: D. Flynn, Vice President for Research  
D. Kian, Vice President for Legal Affairs & General Counsel  
Miriam Campo, Assistant VP for Research



Policy Number:	GL-0201	General Liability Certificate of Coverage
Name Insured:	Florida Atlantic University	

[illegible]

DFS-D0-863  
(REV. 7/17)



STATE RISK MANAGEMENT TRUST FUND  
GENERAL LIABILITY  
CERTIFICATE OF COVERAGE

In consideration of the provisions and stipulations contained herein or added hereto and for the premium charged, the State Risk Management Trust Fund, hereinafter referred to as the "Fund", certifies that the State department or agency named in this certificate is hereby provided general liability coverage. Coverage shall be effective on the inception date at 12:01 a.m. standard time.

This certificate is comprised of the foregoing provisions and stipulations, together with such other provisions and stipulations as may be added hereto by the Fund in the future:

**I. COVERAGES**

**General Liability Coverage--Bodily and Property Damage**

To pay on behalf of the insured all sums which the insured shall become legally obligated to pay as damages for injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any officer, employee, agent or volunteer of the named insured, as such terms may be further defined herein or by administrative rule, while acting within the scope of his office or employment, pursuant to the provisions and limitations of Chapter 284, Part II and Section 768.28, Florida Statutes.

**II. DEFENSE, SETTLEMENT, SUPPLEMENTARY PAYMENTS**

With respect to such coverage as is afforded by this certificate, the Fund shall:

- (a) defend any proceeding against the insured seeking such benefits and any suit against the insured alleging such injury and seeking damages on account thereof, even if such proceeding or suit is groundless, false, or fraudulent. The Fund will investigate all claims filed against the insured in order to determine the legal liability of the insured and to determine damages sustained by the claimant. The Fund will negotiate, settle, or deny the claim based on these findings and appropriate Florida law.
- (b) pay all premiums on bonds to release attachments and on appeal bonds required in any such defended suit for an amount not in excess of the applicable limit of liability established in this certificate;
- (c) pay all expenses incurred by the Fund, all costs taxed against the insured in any such suit, and all interest accruing after entry of judgment until the Fund has paid, tendered, or deposited in court that part of such judgment as does not exceed the limit of the Fund's liability thereon;
- (d) pay expenses incurred by the insured for such immediate medical relief to others as shall be imperative at the time of the accident.

**III. DEFINITIONS**

- (a) Named Insured - The department or agency named herein.
- (b) Insured - State department or agency named herein, their officers, employees, agents or volunteers.
- (c) Volunteer - Any person who of his own free will, provides goods or services to the named insured, with no monetary or material compensation as defined in Chapter 110, Part IV, Florida Statutes.
- (d) Agent - Any person not an employee, acting under the direct control and supervision of a state agency or department, for the benefit of a state agency or department.
- (e) Automobile - A land motor vehicle, trailer, or semi-trailer designed and licensed for use on public roads (including machinery or apparatus attached thereto), but does not include mobile equipment.
- (f) Mobile Equipment - A land vehicle (including machinery or apparatus attached thereto), whether or not self-propelled;
  - (1) not subject to motor vehicle registration, or

- (2) maintained for use exclusively on premises owned by or rented to the named insured, including the ways immediately adjoining, or
- (3) designed for use principally off public roads, or
- (4) designed or maintained for the sole purpose of affording mobility to equipment of the following types forming an integral part of or permanently attached to such vehicle; power cranes, shovels, loaders, diggers and drills; concrete mixers (other than the mix-in-transit type); graders, scrapers, rollers and other road construction or repair equipment; air-compressors, pumps and generators, including spraying, welding, and building cleaning equipment; and geophysical exploration and well-servicing equipment.

**IV. EXCLUSIONS**

This certificate does not apply:

- (a) to bodily injury or property damage arising out of the ownership, maintenance, operation, use, loading or unloading of:
  - (1) any automobile owned or operated by or rented or loaned to any insured, or
  - (2) any other automobile operated by any person in the course of his employment by any insured, but this exclusion does not apply to the parking of an automobile on premises owned by, rented to, or controlled by the named insured or the ways immediately adjoining, if such automobile is not owned by, rented, or loaned to any insured;
- (b) to any action which may be brought against the named insured by anyone who unlawfully participates in riot, unlawful assembly, public demonstration, mob violence, or civil disobedience if the claim arises out of such riot, unlawful assembly, public demonstration, mob violence, or civil disobedience;
- (c) to any obligation for which the insured or the Fund may be held liable under any employer's liability or workers' compensation law;
- (d) to property damage to property owned or occupied by the insured;
- (e) to property damage to premises alienated by the insured arising out of such premises or any part thereof;
- (f) to loss of use of tangible property which has not been physically injured or destroyed, resulting from:
  - (1) a delay in or lack of performance by or on behalf of the named insured of any contract or agreement;
  - (2) the failure of the named insured's products, or work performed by or on behalf of the named insured to meet the level of performance, quality fitness, or durability warranted or represented by the named insured;
- (g) to property damage to the named insured's products arising out of such products or any part of such products;
- (h) to property damage to work performed by or on behalf of the named insured arising out of the work or any portion

thereof, or out of materials, parts, or equipment furnished in connection therewith;

- (i) eminent domain proceedings or damage to persons or property of others arising therefrom;
- (j) to punitive damages;
- (k) to actions of insureds committed in bad faith or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property;
- (l) to professional medical liability of the Board of Regents, the physicians, officers, employees, or agents of the Board;
- (m) to liability related in any way with nuclear energy;
- (n) to liability assumed by the insured under any contract or agreement;
- (o) to final judgments in which the insured has been determined to have caused the harm intentionally;
- (p) to awards for injunctive, declaratory, or prospective relief rendered against an insured by any federal or state court, agency or commission.

## V. CONDITIONS

### A. Premium

Premium charges shall be assessed in accordance with the provisions of Chapter 284, Part II, Florida Statutes, and any rules promulgated thereunder utilizing a retrospective rating arrangement premium calculation method whereby 80% of the premium is based on losses actually incurred by the insured and 20% is based on the changes in risk exposures (employees, etc.) of an insured. The premium must be paid promptly by an insured agency from its operating budget upon receiving the premium bill or invoice.

### B. Audit

The Fund shall be permitted to examine and audit the insured's books and records at any time during the term of this coverage and any extension thereof, and within three years after the final termination of this coverage, as far as they relate to the premium bases or the subject matter of this coverage.

### C. Insured's Duties in the Event of Occurrence, Claim or Suit

- (1) Event of Occurrence  
Written notice containing particulars sufficient to identify the insured, along with reasonably obtainable information with respect to the time, place and circumstances thereof, the names and addresses of the injured and all known witnesses, shall immediately be given by or for the insured to the Fund.
- (2) Notice of Claim or Suit  
If claim is made by suit brought against the insured, the insured shall immediately forward to the Fund every demand, notice, summons, or other process received by him or his representative. Failure by the insured to advise the Fund of a claim or suit prior to a settlement agreement or the insured otherwise obligating itself, shall void coverage by the Fund, for that claim.
- (3) Assistance and Cooperation of the Insured  
The insured shall cooperate with the Fund and, upon the Fund's request, assist in making settlements, in the conduct of suits and in enforcing any right of contribution or indemnity against any person or organization who may be liable to the insured because of injury or damage with respect to which coverage is afforded under this certificate, and the insured shall upon request, make available all agency records pertaining to a specific claim, shall attend hearings and trials and assist in securing and

giving evidence and obtaining the attendance of witnesses. The insured shall not, except at his own cost, voluntarily make any payment, assume any obligation or incur any expenses other than for first aid to others at the time of accident.

### (4) Action Against the Fund

No action shall lie against the Fund unless, as a condition precedent thereto, the insured shall have been in full compliance with all of the terms of this certificate and the provisions of applicable Florida Statutes.

### (5) Severability of Interest

The term "the insured" is used severally and not collectively, but the inclusion herein of more than one insured shall not operate to increase the limits of the Fund's liability.

### (6) Limits of Liability

The limit of liability expressed as applicable to "each person" is the limit of the Fund's liability for all damages, including damages for care and loss of services, arising out of personal injury and property damage sustained by one person as a result of any one occurrence; but the total liability of the Fund for all damages sustained by two or more persons as a result of any one occurrence shall not exceed the limit of liability as applicable "each occurrence".

### (7) Other Insurance

If there is insurance applicable to any claim, the coverage extended by this certificate shall apply only as excess insurance over any and all other applicable insurance.

### (8) Terms of Coverage

This certificate is issued for the purpose of confirming coverage as contemplated by Chapter 284, Part II, Florida Statutes. In the event of any conflict between provisions or coverages in this certificate and the provisions of any Florida Statutes or laws including, but not limited to the aforesaid, said statutes and laws shall control.

### (9) Cancellation

Failure of the Fund to receive the amount of premiums billed to the insured agency within the time frames allowed by law may result in cancellation of the certificate of coverage. Payments must be made promptly from the insured's operating budget upon receipt of the premium bill as specified in Section 284.36, Florida Statutes, and lack of prompt payment will result in a request from the Fund to the Comptroller to transfer premiums from any available funds of the delinquent agency under the provisions of Section 284.44(7), Florida Statutes.

### D. Self-Insurance Coverage

Coverage for defending and paying claims under this certificate is provided under the authority of Chapter 284, Florida Statutes, wherein the state is authorized to administer a self-insurance program. Provision of this certificate does not constitute the issuance of insurance other than on a self-insurance basis, and payment of any covered claim obligations is contingent upon availability of legislative funding.



**DEPARTMENT OF FINANCIAL SERVICES**  
***Division of Risk Management***

**STATE RISK MANAGEMENT**  
**TRUST FUND**

Policy Number: WC-0201

State Employee Workers' Compensation  
and Employer's Liability  
Certificate of Coverage

Name Insured: Florida Atlantic University

**Coverage Limits:**

Coverage A - Compensation coverage is provided to comply with the applicable State Workers' Compensation, Occupational Disease Laws and any rule promulgated thereunder.

Coverage B      \$200,000.00 each person  
                     \$300,000.00 each occurrence

Inception Date: July 1, 2022

Expiration Date: July 1, 2023



DEPARTMENT OF FINANCIAL SERVICES  
*Division of Risk Management*

STATE RISK MANAGEMENT TRUST FUND  
STATE EMPLOYEE WORKERS' COMPENSATION AND  
EMPLOYER'S LIABILITY  
CERTIFICATE OF COVERAGE

In consideration of the provisions and stipulations contained herein or added hereto and for the premium charged, the State Risk Management Trust Fund, hereinafter referred to as the "Fund", certifies that the State department or agency named in this certificate is hereby entitled to workers' compensation coverage as set forth in the Workers' Compensation Laws and to employer's legal liability coverage as established herein. Coverage shall be effective on the inception date at 12:01 a.m., standard time.

This certificate is comprised of the foregoing provisions and stipulations, together with such other provisions and stipulations as may be added hereto by the Fund in the future:

**I. Coverages**

**A. Coverage A - Workers' Compensation**

To pay promptly when due all compensation and other benefits required of the insured by the Workers' Compensation Laws.

**B. Coverage B - Employer's Liability**

To pay on behalf of the insured all sums which the insured shall become liable to pay as damages because of bodily injury by accident or disease, including death, at any time resulting therefrom, which are sustained by an employee of the insured and which arise out of and in the course of his employment with the insured in the United States of America, its territories or possessions, or while temporarily employed outside the United States of America, its territories or possessions.

**II. Defense, Settlement, Supplementary Payments**

As respects the insurance afforded by the other terms of this certificate, the Fund shall:

- (a) defend any proceeding against the insured seeking such benefits and any suit against the insured alleging such injury and seeking damages on account thereof, even if such proceeding or suit is groundless, false, or fraudulent. The Fund will investigate all claims filed against the insured in order to determine the legal liability of the insured and to determine damages sustained by the claimant. The Fund will negotiate, settle, or deny the claim based on these findings and appropriate Florida law.
- (b) pay all expenses incurred by the Fund, all costs taxed against the insured in any such proceeding or suit, and all interest accruing after entry of judgment until the Fund has paid, tendered, or deposited in court such part of such judgment as does not exceed the limit of the Fund's liability thereon;
- (c) pay amounts incurred under this insuring certificate, except settlements of claims and suits, in addition to the amounts payable under Coverage A, or the applicable limit of liability under Coverage B.

**III. Definitions**

- (a) Workers' Compensation Law - The workers' compensation law and any occupational disease law of a state designated in this certificate, but does not include those provisions of any such law which provide non-occupational disability benefits.
- (b) State - Any state or territory of the United States of America and the District of Columbia.
- (c) Bodily Injury by Accident - Bodily Injury by Disease - The contraction of disease is not an accident within the meaning of the word "accident", as used in the term "bodily injury by accident", and only such disease as results

directly from a bodily injury by accident is included within the term "bodily injury by accident". The term "bodily injury by disease" includes only such disease as is not included within the term "bodily injury by accident".

- (d) Assault and Battery - Under Coverage B, Assault and Battery shall be deemed an accident unless committed by or at the direction of the insured.

**IV. Applications of Coverage**

This certificate applies only to (1) injury by accident occurring during the coverage period, or (2) occupational injury by disease as such is defined by law which occurs during the coverage period.

**V. Exclusions**

This certificate does not apply under Coverage B:

- (a) to any claim or judgment for punitive damages;
- (b) to any claim for interest for the period prior to judgment;
- (c) to that portion of a claim or judgment which is in excess of the statutory limits of liability;
- (d) to liability assumed by the insured or any third party pursuant to any contract or agreement in writing;
- (e) to any obligation for which the named insured or any carrier as his insurer may be held liable under any workers' compensation, unemployment compensation or disability benefits laws, or under any similar law;
- (f) to any action by officers, employees, agents, or volunteers as defined in Chapter 110, Part V, Florida Statutes, committed in bad faith, or with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property.

**VI. Conditions:**

**A. Premium**

Premium charges shall be assessed in accordance with the provisions of Chapter 284, Part II, Florida Statutes, and any rules promulgated thereunder utilizing a retrospective rating arrangement premium calculation method whereby 80% of the premium is based on losses actually incurred by the insured and 20% is based on the changes in risk exposures (employees, volunteers, etc.) of an insured. The premium must be paid promptly by an insured agency from its operating budget upon receiving the premium bill or invoice.

**B. Inspection**

The Fund shall be permitted, but not obligated, to inspect at any reasonable time, the workplaces, operations, machinery, and equipment covered by this certificate. Neither the right to make inspections, nor the making thereof, nor any report thereon shall constitute an



undertaking on behalf of or for the benefit of the insured or others, to determine or warrant that such workplaces, operations, machinery, or equipment are safe.

**C. Insured's Duties in the Event of Injury, Claim or Suit**

- (1) **Notice of Injury**  
When an injury occurs, notice shall be given immediately, in accordance with current reporting procedures by the insured to the Fund. Such notice shall contain particulars sufficient to identify the insured along with reasonably obtainable information respecting the time, place, circumstances of the injury, the names and addresses of the injured and all known witnesses. Such notice is to be directed to the Division of Risk Management, State Employees' Workers' Compensation Claims, P. O. Box 8020, Tallahassee, Florida 32314-8020, or to contract service vendor in accordance with current reporting procedures.
- (2) **Notice of Claim or Suit**  
If claim is made or suit or other proceedings is brought against the insured, the insured shall immediately forward to the Fund every demand, notice, summons, or other process received by it or its representative.
- (3) **Assistance and Cooperation of the Insured**  
The insured shall cooperate with the Fund, and at its request, shall attend hearings and trials, assist in effecting settlements, secure and give evidence, obtaining the attendance of witnesses. The insured shall not except at its own cost, voluntarily make any payment, assume any obligation, or incur any expense other than for such immediate medical and other services at the time of injury as are required by the Workers' Compensation Law.
- (4) **Statutory Provisions - Coverage A**  
The Fund shall be directly and primarily liable to any person entitled to the benefits of the Workers' Compensation Law under this certificate. The obligations of the Fund may be enforced by such person, or for his benefit, by any agency authorized by law, whether against the Fund alone or jointly with the insured. As between the employee and the Fund, notice or knowledge of the injury on the part of the insured shall be notice or knowledge, as the case may be, on the part of the Fund. The Fund shall, in all things, be bound by and subject to the findings, judgments, awards, decrees, orders or decisions rendered against the insured in the form and manner provided by law and within the terms, limitations, and provisions of this certificate not inconsistent with existing law.  
All of the provisions of the Workers' Compensation Law shall be and remain a part of this coverage as fully and completely as if written herein insofar as coverage applies to compensation and other benefits provided by this certificate and in respect to special taxes, payments into security or other special funds, and assessments required of or levied against compensation insurance carriers under the Workers' Compensation Law.  
The insured shall reimburse the Fund for any payments required of the Fund under the Workers' Compensation Law, which are made in excess of the benefits regularly provided by such law, solely because of injury to (a) any employee by reason of the serious and willful misconduct of the insured, or (b) any employee employed by the insured in violation of law with the knowledge or acquiescence of the insured or any executive officer thereof.
- (5) **Limits of Liability - Coverage B**

The words "damages because of bodily injury by accident or disease, including death at any time resulting therefrom" in Coverage B include damages for care and loss of services and damages for which the insured is liable by reason of suits or claims brought against the insured by others because of such bodily injury sustained by employees of the insured arising out of and in the course of their employment. The limits of liability for Coverage B are those established by Section 768.28, Florida Statutes.

- (6) **Other Insurance**  
*Coverage A* - If the insured has other insurance against a loss covered by this certificate, the Fund shall not be liable to the insured hereunder for (1) a greater proportion of such loss than the amount which would have been payable under this certificate had no such other insurance existed, and (2) the amount which would have been payable under each other policy applicable to such loss had each such policy been the only policy so applicable.  
*Coverage B* - If there is a valid and collectible policy of insurance applicable to any otherwise valid claim hereunder, the coverage extended by this certificate shall not apply.
- (7) **Subrogation**  
In the event of any payment under this certificate, the Fund shall be subrogated to all rights of recovery therefor of the insured and any person entitled to the benefits of this coverage against any person or organization, and the insured shall execute and deliver instruments and papers and do whatever else is necessary to secure such rights. The insured shall do nothing after loss to prejudice such rights.
- (8) **Cancellation**  
Failure of the Fund to receive the amount of premiums billed to the insured agency within the time frames allowed by law may result in cancellation of the certificate of coverage. Payments must be made promptly from the insured's operating budget upon receipt of the premium bill as specified in Section 284.36, Florida Statutes, and lack of prompt payment will result in a request from the Fund to the Comptroller to transfer premiums from any available funds of the delinquent agency under the provisions of Section 284.44(7), Florida Statutes.
- (9) **Terms of Coverage Conformed to Statute**  
Terms of this certificate which are in conflict with the provisions of the Workers' Compensation Law, or Section 768.28, Florida Statutes, are hereby amended to conform to such laws.
- (10) **Self-Insurance Coverage**  
Coverage for defending and paying claims under this certificate is provided under the authority of Chapter 284, Florida Statutes, wherein the state is authorized to administer a self-insurance program. Provision of this certificate does not constitute the issuance of insurance other than on a self-insurance basis, and payment of any covered claim obligations is contingent upon availability of legislative funding.