

Agenda Item #:3E-1

PALM BEACH COUNTY
BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: December 20, 2022 [X] Consent [] Regular
[] Ordinance [] Public Hearing

Department
Submitted By: Community Services
Submitted For: Community Services

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to approve: A Contract for Provision of Services with Palm Beach County Food Bank, Inc. (PBCFB), for the period of October 1, 2022 through September 30, 2023, in an amount not-to-exceed \$1,107,968, to provide food distribution services to the low-income residents of Palm Beach County.

Summary: The above agency has the space and resources to provide food pantry services for the low-income residents of Palm Beach County (PBC). Funding is provided by the Community Development Block Grant - Coronavirus Aid, Relief and Economic Security (CDBG-CV) Act. To help end hunger needs in PBC, PBCFB distributes the majority of food to approximately 200 partners. In 2021, PBCFB was able to assist with 14.5 million meals distributed to low-income residents. PBCFB is experiencing an increased demand for food assistance due to inflation. PBC families and caregivers are turning to food banks for food donations and food sources to bridge the gap to reduce food insecurity. Funding will be used to assist with the purchase of non-perishable food items and perishable items when ordered in advance to meet the distribution needs of our community partner agencies to provide hunger relief to eligible low-income individuals and families who are PBC residents. No County match is required. (Community Action Program) Countywide (HH)

Background and Justification: The 2015 United Way of Palm Beach County Hunger Relief Plan identified a need for nutritional food resources in low-income neighborhoods and households. CDBG-CV funds were provided to Palm Beach County to respond to the Coronavirus pandemic.

- Attachments:
1. Contract for Provision of Services with PBCFB
2. Budget Availability Statement

Recommended By: [Signature: Tanina Malliotra] Department Director Date: 11/30/2022
Approved By: [Signature] Assistant County Administrator Date: 12/12/2022

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures					
Operating Costs	1,107,968				
External Revenue	(1,107,968)				
Program Income (County)					
In-Kind Match (County)					
NET FISCAL IMPACT	0	0			
No. ADDITIONAL FTE POSITIONS (Cumulative)					

Is Item Included In Current Budget? Yes x No
 Does this item include the use of federal funds: Yes x No

Budget Account No.:
 Fund 1160 Dept 143 Unit 1446 Object 8201_ Program Code Program Period

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

C. Departmental Fiscal Review: DocuSigned by:
Julie Dowe
 Julie Dowe, Director, Financial & Support Svcs.

III. REVIEW COMMENTS

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

Julia Mante 12/7/2022
 OFMB 11/30 MB 12/6 LM 12/6
Julie J. Jaworski 12/12/22
 Contract Development and Control

B. Legal Sufficiency:

Helene C. Heindel 12-12-22
 Assistant County Attorney

C. Other Department Review:

 Department Director

This summary is not to be used as a basis for payment.

CONTRACT FOR PROVISION OF SERVICES

This Contract is made as of _____ day of _____, 20__, 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 **Palm Beach County Food Bank, Inc.**, hereinafter referred to as the AGENCY, a not-for-profit corporation authorized to do business in the State of Florida, whose Federal Tax I.D. is **90-0788707**.

WHEREAS, the COUNTY, pursuant to the Coronavirus Aid, Relief and Economic Security Act (CARES Act), has entered into an contract with the Housing and Urban Development (HUD) for Community Development Block Grant - Coronavirus (CDBG-CV) funding and is designated RECIPIENT ADMINISTRATOR of the CDBG-CV and Community Action Programs (CAP) in Palm Beach County; and

WHEREAS, the AGENCY has agreed to assure access to funded services for COUNTY departments, divisions and/or programs; and to assure that individuals referred from COUNTY departments, divisions and/or programs will receive services on a timely basis.

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

ARTICLE 1 INCORPORATION OF RECITALS

The foregoing recitals are true and correct and incorporated herein by reference.

ARTICLE 2 FUNDED SERVICES

The AGENCY agrees to provide Partner Marketplace - Food Distribution services to low-income residents of Palm Beach County as set forth in the **EXHIBIT A - SCOPE OF WORK AND SERVICES**. The AGENCY also agrees to provide deliverables, including reports, as specified in **ARTICLE 19 - AGENCY'S PROGRAMMATIC REQUIREMENTS**. No changes in the scope of work or services are to be conducted without the written approval of the Palm Beach County Community Services Department (the DEPARTMENT). The AGENCY receiving funds must be an agency within Palm Beach County and the AGENCY'S services, with these contracted funds, are limited to meeting the needs of Palm Beach County residents.

No part of the funding is intended to benefit any specific individual or recipient. All funding is intended for the overall benefit of all recipients of the services provided by the programs being funded herein.

ARTICLE 3 ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) Laws passed by Congress, which are codified in provisions of the United States Code (U.S.C.) applicable to the funding source for this Contract; (2) Rules or regulations adopted by a federal agency, which are codified in the Code of Federal Regulations (C.F.R) and applicable to the funding source for this Contract; (3) the federal award or funding document for this Contract; (4) the

provisions of the Contract, including **EXHIBIT A** and **EXHIBIT B**; and (5) all other documents, if any, cited herein or incorporated herein by reference.

ARTICLE 4 SCHEDULE

The AGENCY shall commence services on October 1, 2022 and complete services on September 30, 2023.

The parties shall amend this Contract if there is a change to the scope of work, funding, and/or federal, state, and local laws or policies affecting this Contract.

Monthly billing, reports and other items shall be delivered or completed in accordance with the detailed schedule set forth in **EXHIBIT A**, **EXHIBIT B**, and **ARTICLE 19 - PROGRAMMATIC REQUIREMENTS**.

ARTICLE 5 PAYMENTS TO AGENCY

The total amount to be paid by the COUNTY under this Contract for all services and materials shall not exceed a total contract amount of **ONE MILLION ONE HUNDRED AND SEVEN THOUSAND NINE HUNDRED AND SIXTY EIGHT DOLLARS AND ZERO CENTS (\$1,107,968.00)**.

The AGENCY will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in **EXHIBIT B** for services rendered toward the completion of the Scope of Work. Where incremental billings for partially completed items are permitted, the total billings shall not exceed the estimated percentage of completion as of the billing date.

The program and unit cost definitions for this Contract year are set forth in **EXHIBIT B**. All requests for payments of this Contract shall include an original cover memo on AGENCY letterhead signed by the Chief Executive Officer, Chief Financial Officer or their designee.

The AGENCY is obligated to provide the COUNTY with the properly completed requests for all funds to be paid relative to this Contract. Any amounts not submitted by AGENCY shall remain the COUNTY'S and the COUNTY shall have no further obligation with respect to such amounts.

Payment of invoices shall be contingent on timely receipt of all required reports. Invoices received from the AGENCY pursuant to this Contract will be submitted through the Services and Activities Management Information System (SAMIS) website, reviewed and approved by the COUNTY'S representative, to verify that services have been rendered in conformity with the Contract. Approved invoices will then be sent to the Finance Department for payment. Invoices will normally be paid within thirty (30) days following the COUNTY representative's approval. Any payment due by COUNTY under the terms of this Contract shall be withheld until all reports due from the AGENCY and necessary adjustments have been approved by the COUNTY. In the event that the AGENCY has drawn down all possible funds prior to the end of the fiscal year and does not comply with all reporting requirements, the COUNTY will take this into consideration during the next funding year.

COUNTY funding can be used to match grants from non-COUNTY sources; however, the grantee cannot submit reimbursement requests for the same expenses to more than one funding source or under more than one COUNTY funded program.

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.

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 subagencies, AGENCY must also ensure that all subagencies are registered as agencies in VSS. All subcontractor agreements must include a contractual provision requiring that the subagency register in VSS. COUNTY will not finalize a contract award until the COUNTY has verified that the AGENCY and all of its subagencies are registered in VSS.

ARTICLE 6 AVAILABILITY OF FUNDS

The obligations of the COUNTY under this Contract for the current or any subsequent grant year are subject to the availability of funds lawfully appropriated for its purpose by the Board of County Commissioners of Palm Beach County, and received from the United States Government under the Community Development Block Grant - COVID (CDBG-CV).

ARTICLE 7 TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Contract 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 Contract are accurate, complete and current as of the date of the Contract and no higher than those charged to 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 agencies. The COUNTY shall exercise its rights under this Article within three (3) years following final payment.

ARTICLE 8 AMENDMENTS TO FUNDING LEVELS

This Contract may be amended to decrease and/or increase funds for the delivery of services depending upon the utilization and rate of expenditure of funds.

AGENCY shall be subject to decrease of funds if funds are not utilized at the anticipated rate of expenditures. The anticipated rate of expenditures is determined by dividing the Contract service

amount by the months in the Contract unless otherwise provided for in this Contract. A 10% increase over the monthly expenditure rate must be pre-approved by the COUNTY. The anticipated rate of expenditure will be figured on a per service basis. The formula for reduction of funds shall be as follows:

At one quarter of the service period the AGENCY shall have provided at a minimum twenty percent (20%) of their anticipated services. If the minimum has not been reached ten percent (10%) of the unspent funds allocated for that service period may be reduced.

At one half of the service period the AGENCY shall have provided at a minimum forty percent (40%) of their anticipated services. If the minimum has not been reached fifty percent (50%) of the unspent funds allocated for that service period may be reduced.

At three quarters of the service period the AGENCY shall have provided at a minimum eighty percent (80%) of their anticipated services. If the minimum has not been reached one hundred percent (100%) of the unspent funds allocated for that service period may be reduced.

In the event that funds become available due to other agencies budgets being decreased, a currently funded AGENCY may apply for those funds. AGENCY may become eligible for an increase in funding if they have spent their funds at the anticipated rate and can present a proposal for the utilization of additional funds by delivering additional units of service.

Any increase or decrease of funding for any of the AGENCY'S contracted programs of up to 10% may be approved by the Director of Community Services or Designee. Any increase or decrease of funding over 10% must be approved by the Board of County Commissioners.

ARTICLE 9 INSURANCE

The AGENCY shall maintain at its sole expense, in force and effect at all times during the term of this Contract, insurance coverage and limits (including endorsements) as described herein. Failure to maintain at least the required insurance shall be considered default of the Contract. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by AGENCY, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by AGENCY under the Contract. AGENCY agrees to notify the COUNTY at least ten (10) days prior to cancellation, non-renewal or material change to the required insurance coverage. Where the policy allows, coverage shall apply on a primary and non-contributory basis.

- A. **Commercial General Liability:** AGENCY shall maintain Commercial General Liability at a limit of liability not less than \$500,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.
- B. **Additional Insured Endorsement:** The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the

State of Florida, its Officers, Employees, and Agents” as an Additional Insured. A copy of the endorsement shall be provided to COUNTY upon request.

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

Palm Beach County Board of Commissioners

and may be addressed:

c/o Community Services Department
810 Datura Street

West Palm Beach, FL 33401
ATTN: Contracts Manager

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

ARTICLE 10 INDEMNIFICATION

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

AGENCY will hold the COUNTY harmless and will indemnify the COUNTY for any funds that the COUNTY is obligated to refund the Federal Government based on the AGENCY'S provision of services, or failure to provide services, pursuant to this Contract. The AGENCY also agrees that funds made available pursuant to this Contract shall not be used by the AGENCY for the purpose of initiating or pursuing litigation against the COUNTY.

ARTICLE 11 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 Contract. Except as above, neither the COUNTY nor the AGENCY shall assign, sublet, convey or transfer its interest in this Contract without the prior written consent of the other.

ARTICLE 12 WARRANTIES AND LICENSING REQUIREMENTS

The AGENCY 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.

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. The AGENCY 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.

The AGENCY represents and warrants that it is governed by a Board, or other appropriate body, whose members have no monetary conflict of interest. Further, the members must also serve the AGENCY without compensation, and the composition of the governing body must reasonably reflect Palm Beach County and/or client demographics.

The AGENCY shall comply with all legal criminal history record check regulations required for the population they serve. AGENCY will have and comply with policy that requires them to conduct a Level 1 or Level 2 Criminal Background Check as appropriate on applicants and volunteers being considered for positions that will provide services or will be around children, the elderly and other vulnerable adult populations, prior to start date. AGENCY may hire employees prior to obtaining the Level 2 background check results, the employees are only permitted to attend training and orientation during this period while they are waiting for their background check results. They are not allowed to have any contact with the clients during this period. Live Scan Screening proof must be provided that shows the scan was completed prior to an employee's start date. All criminal background checks shall be done at the expense of the AGENCY.

ARTICLE 13 PERSONNEL

The AGENCY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. Any changes or substitutions in the AGENCY'S key personnel, or any personnel turnover which could adversely impact the AGENCY'S ability to provide services as may be listed herein must be made known to the COUNTY'S representative within five (5) working days of the change. AGENCY shall establish and consistently utilize an allocation methodology for personnel costs for program activities supported by multiple sources.

All of the services required hereinunder shall be performed by the AGENCY or under its supervision. The AGENCY further represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under this Contract, and that they shall be fully qualified and, if required, authorized, permitted, and/or licensed under State and local law to perform such services. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

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 14 NONDISCRIMINATION

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 AGENCY 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 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.

AGENCY shall comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to: (a) 42 U.S.C. § 2000d et seq., Title VI, Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin; (b) 20 U.S.C. § 1681 et seq., Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex; (c) 29 U.S.C. § 701 et seq., Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; (d) 42 U.S.C. § 6101 et seq., the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; (e) Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse; (f) Public Law 91-616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 42 U.S.C. § 201 et seq., the Public Health Service Act of 1912, as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) 42 U.S.C. § 3601 et seq., Title VIII of the Civil Rights Act of 1968, as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the statute(s) under which this Contract that uses Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to this Contract. Vendor shall comply with the Drug Free Workforce Act of 1988.

The AGENCY 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. AGENCY shall include this language in its subcontracts.

ARTICLE 15 SUBCONTRACTING

The COUNTY reserves the right to accept the use of a subcontractor, or to reject the selection of a particular subcontractor, and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform properly under this Contract.

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

ARTICLE 16 REMEDIES

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

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

ARTICLE 17 CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, LABOR SURPLUS FIRMS

A. The COUNTY has made all necessary affirmative steps to assure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible. The AGENCY, if prime sub-contracts are to be let, shall take the Affirmative Steps listed below in paragraphs 1) through 5) of this Article.

B. AFFIRMATIVE STEPS must include:

1. Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
2. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
3. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
4. Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
5. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

ARTICLE 18 HIRING OF MECHANICS OR LABORERS

For those solicitations and contracts including the employment of mechanics or laborers, the Contract must provide for compliance with 40 U.S.C § 3702, as supplemented by Department of Labor regulations (29 C.F.R. 5). Specifically, AGENCY shall be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half (1½) times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

ARTICLE 19 AGENCY'S PROGRAMMATIC REQUIREMENTS

Failure to provide or adhere to the following information or activity in a timely fashion and in the format required will constitute a material breach of this Contract and may result in termination of this Contract.

In addition to its other obligations hereunder, the AGENCY agrees to comply with the following:

1. AGENCY shall maintain separate financial records for Contract funds and account for all receipts and expenditures including direct and indirect cost allocations in accordance with Generally Accepted Accounting Principles (GAAP), by individual service categories, by administration and program costs. Cost allocations are to be completed and posted to the general ledger on a monthly basis. The backup documentation-copies of paid receipts, copies of checks, invoices, or any other applicable documents acceptable to the Palm Beach County Community Services Department will be requested as desk and/or on-site monitoring on a periodic basis. The AGENCY will provide a final close out report and Financial Reconciliation Statement as set forth in **EXHIBIT C** on accounting for all funds expended hereunder no later than 30 days from the Contract end date.
2. AGENCY shall be chartered or registered with the Florida Department of State, have been incorporated for at least one agency fiscal year and have provided services for at least six months. If approved for funding, a formal contract shall be executed, and payment will be made by reimbursement of documented expenses.
3. AGENCY shall promptly reimburse the COUNTY for any funds which are misused, misspent, unspent, or are for any reason deemed by the COUNTY to have been spent on ineligible expenses. This will be calculated based on payment schedule as determined by the COUNTY.
4. AGENCY must allow the DEPARTMENT to monitor AGENCY to assure that goals and conduct as outlined in the **SCOPE OF WORK EXHIBIT A**, are adhered to. Non-compliance may impact future contract awards and/or funding level.
5. AGENCY agrees to not use or disclose protected health information, defined as individually identifiable health information other than permitted or required by this Contract or as required by law
6. AGENCY must attend all meetings, as required by COUNTY staff and other funded agencies, to develop their respective programs.
7. AGENCY must maintain books, records, documents, and other evidence which sufficiently and properly reflects all costs and provisions of services to individuals of any nature expended in the performance of this Contract for a period of not less than seven (7) years.

8. AGENCY must not expend funds received pursuant to this Contract with any for-profit entity if there is a nonprofit entity available to provide quality service. Expenditure with a for-profit entity will require documentation that there were nonprofit entities available to provide the quality service.

9. If applicable, AGENCY agrees to the sharing of all data collected pursuant to this Contract, and must execute a Data Sharing Agreement that provides for sharing all data within the client database.

10. In accordance with section 119.0721(2), Florida Statutes, Social Security Numbers (SSN) may be disclosed to another governmental entity or its agents, employees, or contractors, if disclosure is necessary for the receiving entity to perform its duties and responsibilities. The receiving governmental entity, and its agents, employees, and contractors shall maintain the confidential and exempt status of such numbers.

11. AGENCY must comply with the information contained in **EXHIBIT G - CERTIFICATION REGARDING LOBBYING BYRD ANTI-LOBBYING AMENDMENT** and **EXHIBIT H - CERTIFICATION DEBARMENT AND SUSPENSION**.

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 seven (7) years after completion of this Contract, or until resolution of any audit findings and/or recommendations. 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.

The AGENCY will provide a final close out report and Financial Reconciliation Statement as set forth in **EXHIBIT C** on accounting for all funds expended hereunder no later than 30 days from the Contract end date.

The AGENCY shall provide the COUNTY with an annual financial audit report, which meets the requirements of sections 11.45 and 216.349, Florida Statutes, and Chapter 10.550 and 10.650, Rules of the Auditor General, and, to the extent applicable, the Single Audit Act of 1984, 31 U.S.C. § 7501-7507, OMB Circular A-128 for the purposes of auditing and monitoring the funds awarded under this Contract.

a. The annual financial audit report shall include all management letters and the AGENCY'S response to all findings, including corrective actions to be taken.

b. The annual financial audit report shall include a schedule of financial assistance specifically identifying all contracts, agreements and grant revenue by sponsoring agency and contract/agreement grant number.

c. The complete financial audit report, including all items specified herein, shall be sent directly to:

Fiscal Manager
Palm Beach County Community Services Department
810 Datura Street
West Palm Beach, FL 33401

Electronic submission via email is acceptable. Please submit audit reports to the Fiscal Manager and Financial Analyst.

d. The AGENCY shall have all audits completed by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The IPA shall state that the audit complied with the applicable provisions noted above.

e. The audit is due within 30 days after receipt of the financial audited report from the IPA or PA within nine (9) months after the close of the AGENCY'S fiscal year.

f. A copy of all grant audits and monitoring reports by other funding entities are required to be provided to the COUNTY.

g. AGENCY shall establish policies and procedures and provide a statement, stating that the accounting system or systems established by the AGENCY, has appropriate internal controls, checking the accuracy and reliability of accounting data, and promoting operating efficiency.

ARTICLE 21 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, and Palm Beach County Code of Ethics. 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 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 AGENCY'S judgment 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 Contract.

ARTICLE 22 DRUG-FREE WORKPLACE

The AGENCY shall implement and maintain a drug-free workplace program of at least the following items:

- A. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
- B. Inform employees about the dangers of drug abuse in the workplace, the AGENCY'S policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
- C. Give each employee engaged in providing the services that are under Contract a copy of the statement specified in Item Number 1 above.
- D. In the statement specified in Item Number 1 above, notify the employees that, as a condition of working on the Contract services, the employee will abide by the terms of the statement and will notify the AGENCY of any conviction of, or plea of guilty nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction or plea.
- E. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted or so pleads.
- F. Make a good faith effort to continue to maintain a drug-free workplace through implementation of section 287.087, Florida Statutes.

ARTICLE 23 AMERICANS WITH DISABILITIES ACT (ADA)

The AGENCY shall meet all the requirements of the Americans With Disabilities Act (ADA), which shall include, but not be limited to, posting a notice informing service recipients and employees that they can file any complaints of ADA violations directly with the Equal Employment Opportunity Commission (EEOC), One Northeast First Street, Sixth Floor, Miami, Florida 33132.

ARTICLE 24 INDEPENDENT CONTRACTOR RELATIONSHIP

The AGENCY is, and shall be, in the performance of all work services and activities under this Contract, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Contract shall at all times, and in all places, be subject to the 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, contract or representation other than specifically provided for in this Contract.

ARTICLE 25 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 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 AGENCY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

ARTICLE 26 PUBLIC ENTITY CRIMES

As provided in section 287.132-133, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, and subcontractors 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 section 287.133(3)(a), Florida Statutes.

ARTICLE 27 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; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

AGENCY acknowledges that Palm Beach County and the Country are currently experiencing a pandemic, specifically COVID-19, and agrees that COVID-19 is not an excusable delay under this Contract.

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 subcontractor's fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the COUNTY'S rights to change, terminate, or stop any or all of the work at any time.

ARTICLE 28 ARREARS

The AGENCY 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 AGENCY further

warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

ARTICLE 29 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 Contract.

The AGENCY agrees 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 the Contract which have been created as a part of the AGENCY'S services or authorized by the COUNTY as a reimbursable expense, whether generated directly by the AGENCY, or by or in conjunction or consultation with any other party whether or not a party to the Contract, whether or not in privity of contract with the COUNTY or the AGENCY, and wherever located shall be the property of the COUNTY.

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 bases, reports and other data developed or purchased under this Contract for the COUNTY, or at the COUNTY'S expense, shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

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

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

ARTICLE 30 TERMINATION

This Contract may be terminated by the AGENCY 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 AGENCY. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days written notice to the AGENCY or without cause upon ten (10) business days written notice to the AGENCY. Unless the AGENCY is in breach of this Contract, 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 31 SEVERABILITY

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

ARTICLE 32 NOTICES

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

Taruna Malhotra, Assistant Department Director
Palm Beach County Community Services Department
810 Datura Street
West Palm Beach, FL 33401

and if sent to the AGENCY, shall be mailed to:

Jamie Kendall, CEO
Palm Beach County Food Bank, Inc.
700 A-2 Boutwell, Suite A-2
Lake Worth, Florida 33461

ARTICLE 33 STANDARDS OF CONDUCT FOR EMPLOYEES

The AGENCY must establish safeguards to prevent employees, agencies or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others such as those with whom they have family, business, or other ties. Therefore, each institution receiving financial support must have written policy guidelines on conflict of interest and the avoidance thereof. These guidelines should reflect State and local laws and must cover financial interests, gifts, gratuities and favors, nepotism, and other areas such as political participation and bribery. These rules must also indicate the

conditions under which outside activities, relationships, or financial interest are proper or improper, and provide for notification of these kinds of activities, relationships, or financial interests to a responsible and objective institution official. For the requirements of code of conduct applicable to procurement under grants, see the procurement standards prescribed by 45 C.F.R. Part 74, Subpart P and 45 C.F.R. Part 92.36.

The rules of conduct must contain a provision for prompt notification of violations to a responsible and objective AGENCY official and must specify the type of administrative action that may be taken against an individual for violations. Administrative actions, which would be in addition to any legal penalty(ies), may include oral admonishment, written reprimand, reassignment, demotion, suspension, or separation. Suspension or separation of a key official must be reported promptly to the COUNTY.

The AGENCY shall provide a copy of the rules of conduct to each officer, employee, board member, and sub-agency who are working on the grant supported project or activity and the rules must be enforced to the extent permissible under State and local law or to the extent to which the COUNTY determines it has legal and practical enforcement capacity.

The rules need not be formally submitted to and approved by the COUNTY; however, they must be made available for a review upon request, for example, during a site visit.

ARTICLE 34 SCRUTINIZED COMPANIES

A. As provided in section 287.135, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, subagencies and AGENCY 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 section 215.4725, Florida Statutes. Pursuant to section 287.135(3)(b), Florida Statutes, 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 Contract may be terminated at the option of the COUNTY.

B. When contract value is greater than \$1 million: As provided in section 287.135, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, subcontractors and AGENCY 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 section 215.473, Florida Statutes, 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 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 section 287.135, Florida Statutes. Said certification must also be submitted at the time of Contract renewal, if applicable.

ARTICLE 35 PUBLIC RECORDS

Notwithstanding anything contained herein, as provided under section 119.0701, Florida Statutes, if the AGENCY: (i) provides a service; and (ii) acts on behalf of the COUNTY as provided under section 119.011(2), Florida Statutes, 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 Contract.
- B. Upon request from the COUNTY'S Custodian of Public Records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The 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 Contract term and following completion of the Contract, if the AGENCY does not transfer the records to the public agency.
- D. Upon completion of the Contract 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 Contract, 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 Contract, 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 Contract. COUNTY shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. AGENCY acknowledges that it has familiarized itself with the requirements of Chapter 119, Florida Statutes, 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 CONTRACT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, and 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

ARTICLE 36 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 its Contract price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

This Contract may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolutions, as amended. COUNTY staff representing the DEPARTMENT will contact the AGENCY(IES) 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 37 PALM BEACH COUNTY OFFICE OF INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code 2-421 through 2-440, as may be amended, which is authorized and empowered to review past, present and proposed COUNTY contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and 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 interference or impeding any investigation shall be in violation of Palm Beach County Code Section 2-421 through 2-440, and punished pursuant to section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

ARTICLE 38 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 39 DISCRIMINATORY VENDOR LIST

An entity or affiliate who has been placed on the discriminatory vendor list may not: contract to provide goods or services to a public entity; contract with a public entity for the construction or repair of a public building or public work; lease real property to a public entity; award or perform work as a vendor, supplier, sub-contractor, or agency under contract with any public entity; nor transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the Discriminatory Vendor List and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

ARTICLE 40 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 Contract.

ARTICLE 41 DEBARMENT AND SUSPENSION

A completed "Certification Regarding Debarment and Suspension" (**EXHIBIT I**) is required at time of contract execution. Upon request, the AGENCY agrees to provide the COUNTY with subsequent certification(s) for it and/or its suppliers, sub-recipients and sub-agencies after Contract award.

This Contract is a covered transaction for purposes of 2 C.F.R. 180 and 2 C.F.R. 3000. As such the AGENCY is required to verify that none of the AGENCY, its principals (defined at 2 C.F.R. 180.995), or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.935).

The AGENCY must comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that the AGENCY did not comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C, in addition to remedies available to the Federal Government serving as Grantor and COUNTY as Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

The AGENCY must comply with the requirements of 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The AGENCY further agrees to include a provision requiring such compliance in its lower tier covered transactions.

ARTICLE 42 FEDERAL SYSTEM FOR AWARD MANAGEMENT

A contract award shall not be made to parties listed on the government-wide exclusions set forth in the System for Award Management (“SAM”) (found at www.sam.gov), which contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.

ARTICLE 43 FACILITIES / OFFICE SPACE

The COUNTY shall grant the AGENCY the right, revocable license and privilege of accessing and using room(s) (the Premises), contingent on availability, at the following COUNTY locations:

810 Datura Street
West Palm Beach, FL 33401

6415 Indiantown Road
Jupiter, FL 33450

1440 Martin Luther King Boulevard
Riviera Beach, FL 33404

1699 Wingfield Street
Lake Worth, FL 33460

38754 State Road #80, Room #216
Belle Glade, FL 33430

The room shall be used solely and exclusively for general office purposes and meeting their obligations under the terms of this Contract. Additional provisions on the license, use and restrictions regarding the Premises are detailed in **EXHIBIT F**, which is attached hereto and incorporated herein.

ARTICLE 44 CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT

AGENCY agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended (42 U.S.C. 7401-7671) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387).

The AGENCY agrees to report each violation to the COUNTY, and understands and agrees that the COUNTY will, in turn, report each violation as required by the federal awarding agency and the appropriate Environmental Protection Agency Regional Office.

The AGENCY agrees to include these requirements in each sub-contract exceeding \$100,000 financed in whole or in part with Federal assistance money.

ARTICLE 45 SCIENTIFIC RESEARCH AND DEVELOPMENT AND COPYRIGHT AND PATENT RIGHTS

Those solicitations or contracts providing federal funds in support of scientific research and development must comply with the requirements of 37 C.F.R. 401 - Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements, and any implementing regulations issued by the awarding agency.

COUNTY shall be the exclusive owner of any patent rights arising as a result of any discovery or invention that arises or is developed in the course of or under this Contract. The COUNTY shall hold the copyright to works produced or purchased under this Contract. FEMA and the Federal Government hold a royalty-free, non-exclusive and irrevocable license to produce, publish, or to otherwise authorize others to use, for Federal Government purposes, copyrighted material that was developed under a Federal award or purchased under a Federal award.

ARTICLE 46 MANDATORY STANDARDS AND POLICIES RELATING TO ENERGY EFFICIENCY

AGENCY is required to comply with mandatory standards and policies related to energy efficiency that are contained in the State energy conservation plan issued in accordance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871) (42 U.S.C. 6201).

ARTICLE 47 PROCUREMENT OF RECOVERED MATERIALS

AGENCY is to provide COUNTY with those goods designated by the Environmental Protection Agency (EPA), at 40 C.F.R. 247 - 247.17, that contain the highest percentage of recovered materials practicable while maintaining a satisfactory level of competition for goods valued above \$10,000 or where the value of the goods procured during the preceding fiscal year exceeded \$10,000. Categories of goods with the highest percentage of recovered materials include construction products; landscaping products; miscellaneous products; non-paper office products; paper and paper products; park and recreation products; transportation products; and vehicular products.

ARTICLE 48 PROGRAM FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS

The AGENCY acknowledges that 31 U.S.C. 38 - Administrative Remedies for False Claims and Statements applies to the AGENCY's actions pertaining to this contract. (31 U.S.C. Chapter 38).

ARTICLE 49 FEDERAL CRIMINAL LAW/FALSE STATEMENTS ACT

The False Statement Act sets forth liability for, among other things, any person who knowingly submits a false claim to the Federal Government or causes another to submit a false claim to the government or knowingly makes a false record or statement to get a false claim paid by the government. For example, a false claim could include false billing documentation submitted by the COUNTY received from an agency or subrecipient under the Contract. (31 U.S.C. 3729).

ARTICLE 50 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), 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 subcontractors performing the duties and obligations of this Contract are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

AGENCY shall obtain from each of its subcontractors an affidavit stating that the subcontractor 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 subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Contract which requires a longer retention period.

COUNTY shall terminate this Contract if it has a good faith belief that AGENCY has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If COUNTY has a good faith belief that AGENCY'S subcontractor has knowingly violated Section 448.09(1), Florida Statutes, as may be amended, COUNTY shall notify AGENCY to terminate its contract with the subcontractor and AGENCY shall immediately terminate its contract with the subcontractor. If COUNTY terminates this Contract pursuant to the above, AGENCY shall be barred from being awarded a future contract by COUNTY for a period of one (1) year from the date on which this Contract was terminated. In the event of such contract termination, AGENCY shall also be liable for any additional costs incurred by COUNTY as a result of the termination.

ARTICLE 51 COUNTERPARTS

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

ARTICLE 52 ENTIRETY OF CONTRACTUAL CONTRACT

The AGENCY agrees that the Scope of Work has been developed from the AGENCY's funding application and that the COUNTY expects performance by the AGENCY in accordance with such application. In the event of a conflict between the application and this Contract, this Contract shall control.

The COUNTY and the AGENCY both further agree that this Contract sets forth the entire Contract 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.

REMAINDER OF 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 AGENCY has hereunto set his/her hand the day and year above written.

ATTEST:

Joseph Abruzzo
Clerk of the Circuit Court & Comptroller
Palm Beach County

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

BY: _____
Deputy Clerk

BY: _____
Mayor

AGENCY:
Palm Beach County Food Bank, Inc.

BY: ^{DocuSigned by:}
Jamie Kendall

D128160E9C88403...
Authorized Signature

Jamie Kendall
AGENCY'S Signatory Name Typed

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

APPROVED AS TO TERMS AND CONDITIONS
Community Services Department

BY: ^{DocuSigned by:}
Helene C. Hvizd

BF3DF20B2223413...
Assistant County Attorney

BY: ^{DocuSigned by:}
Taruna Malhotra

1459E4101F1649G...
Department Director

EXHIBIT A

**FY 2023 FINA COMMUNITY ACTION PROGRAM
AGREEMENT COMMUNITY DEVELOPMENT BLOCK GRANT
- CV
SCOPE OF WORK AND SERVICES**

Agency Name: Palm Beach County Food Bank, Inc.
Program Name: Partner Marketplace - Food Distribution
Location: Palm Beach County-Countywide
Target Population: Emergency Food for low-income, food insecure Palm Beach County residents (Clients) at or below 80% Area Median Income
Service Category: CDBG-CV Food Distribution

Overview:

As a result of the COVID Pandemic, and the adverse economic factors associated with it, food insecurity in Palm Beach County has increased according to the AGENCY's September 2022, Food Insecurity Needs Assessment as compared to 2021 Data for the same period. To respond to food insecurity, Palm Beach County Food Bank provides services to low-income residents of Palm Beach County who do not know from where they will get their next meal and rely on the county's hunger relief system. In June 2021, the United Way of Palm Beach County Hunger Relief Update reported 181,340 food insecure residents including 52,580 children (<https://unitedwaypbcc.org/wp-content/uploads/2021/06/Week-of-June-14-2021.pdf>).

AGENCY will distribute bulk food to partner agencies for provision to eligible Clients in need via the Partner Marketplace (Food Distribution), which focuses on getting food onto the tables of those clients in need by distributing healthy food through the frontline, hunger relief partner agencies.

Requirements:

AGENCY will provide food distribution services in accordance with Community Development Block Grant-Coronavirus Aid, Relief and Economic Security (CARES) Act rules and/or regulations.

Backup Documentation - For a food bank located in and serving a primarily residential low/mod area, the AGENCY may document compliance with low-and-moderate-income (LMI) area benefit national objective criteria. For a food bank serving a non-LMI service area, the regulations provide that the AGENCY may meet the LMI limited clientele national objective in one of two ways.

One way is to document how the nature and location of the activity will result in at least 51 percent of the beneficiaries being LMI. Another would be to collect a simple verifiable income certification from at least 51 percent of the beneficiaries attesting they are LMI.

Services:

Partner Marketplace (Food Distribution)

Millions of pounds of food that otherwise would be thrown away are donated to and purchased by AGENCY by local farmers, restaurants, events, hotels, retailers, and wholesalers. Each week, the donated food is packed in our centrally located warehouse before being distributed to frontline, hunger relief partner agencies throughout the county including the western area in Belle Glade, Pahokee, and South Bay. The soup kitchens, homeless shelters, and food pantries feed the clients with the donated food. AGENCY works closely with local partner agencies ensuring they have safe food handling training and operate in with established protocols.

Agency will meet the following

requirements/deliverables: **Number of Unduplicated**

Clients Served through this program:

Partner Marketplace: 200,000 Clients per month via 130 PBC partner agencies.

EXHIBIT B

**FY 2023 COMMUNITY ACTION PROGRAM AGREEMENT
COMMUNITY DEVELOPMENT BLOCK GRANT - CV
UNITS OF SERVICE RATE AND DEFINITION**

Agency Name: Palm Beach County Food Bank, Inc.
Program Name: Partner Marketplace - Food Distribution

Description	FY 2023	Total Contract Amount
On a monthly basis, Agency will submit itemized receipts for the purchase and distribution of non-perishable food purchased along with proof of non-perishable items distributed to Partner Marketplace partners for eligible Palm Beach residents.	\$1,107,968	\$1,107,968

In accordance with CDBG-CV requirements and ARTICLE 8 - AMENDMENTS TO FUNDING LEVELS, this Contract requires 50% expenditures by April 31, 2023, and 80% by July 31, 2023 and the remaining funds by Sept 2023. There is no exception to this deadline. Inability to spend the dollars will result in the reprogramming of the dollars.

Unit Cost expenses shall mean the actual expenses as authorized by the COUNTY pursuant to this Agreement, and reasonably incurred by AGENCY directly in connection with AGENCY'S performance of its duties and Scope of Work pursuant to this Agreement. AGENCY will sustain the program for the full Agreement period regardless of the rate of expenditure of above funds

FINANCIAL RECONCILIATION STATEMENT

As required by the provisions of the Agreement/Contract between Palm Beach County ("the County") and Agency Name ("Agency") **[Contract Number]** effective _____, 202_, for __[describe subject of Agreement/Contract], attached is a final financial reconciliation of the funds provided by County.

As shown in the attached (mark applicable box):

All funds provided by Palm Beach County were spent in accordance with the provisions of the Agreement/Contract; and total administrative expenses did not exceed fifteen percent (15%)

OR

There were under expenditures in the amount of \$_____, which pursuant to the Contract/Agreement, will be returned to Palm Beach County by _____**[date]**; all other funds were spent in accordance with the provisions of the Agreement/Contract.

The undersigned states that he/she is the CFO or other individual dually authorized as stipulated in the contract to sign this type of document. The information attached is a true and accurate representation of the expenditure of Palm Beach County funds under the Agreement/Contract.

Signature

Date

Print Name

CASH FLOW COMMITMENT STATEMENT

As the authorized representative of the applicant agency, I hereby certify that our agency has adequate cash available (or access to a credit line) to cover up to three (3) months cash expenses.

AGENCY NAME

Authorized Representative

Date

Attachments:

- a. Statement of Cash flows
- b. Statement of Activities
- c. Statement of Financial Position

EXHIBIT E

COMMUNITY SERVICES DEPARTMENT
Incident - Notification Form



Agency / Program: _____

Date Incident Occurred: _____

Person Completing Form: _____

Date of Report: _____

Email address (Optional): _____

Phone #: _____

Method of Communication: (Please check the appropriate box)

- Drop Off
- Standard Mail
- Secured Line
- Certified Mail
- Encrypted Email

Incidents Reported: (Please check the appropriate box)

- Timeline to notify County – Incidents related to Children should be notified between 2-4 hours.
 - Client injury/accident requiring medical attention or hospitalization that could pose an Agency liability
 - Allegation of neglect, physical, mental and sexual abuse of a client by an Agency staff
 - Incidents that may portray the Agency in a negative manner (service delivery, safety and/or fiscal)
- Timeline to notify County – Incidents related to Adults should be notified between 4-8 hours.
 - Client injury/ accident requiring medical attention or hospitalization that could pose an Agency liability
 - Allegation of neglect, physical, mental and sexual abuse of a client by an Agency staff
 - Incidents that may portray the Agency in a negative manner (service delivery, safety and/or fiscal)
- Timeline to notify County – within 14 business days.
 - Resignation/Termination of CEO, President, or CFO
 - Resignation/Termination of key funded staff
 - Program funded staff vacancy over 90 days
 - Loss of funding from another Funder that could impact services
 - Temporary interruption of service delivery (i.e. natural and unnatural disasters)
 - Other (Issues that impact service delivery to Program clients) Specify (_____)

Summary of incident: (Do not include the name of the client or staff involved in incident)

Will there be an investigation?

- Yes
- No
- N/A

Individual Completing Report: Print Name

Position / Title

Individual Completing Report: Signature

Date

**USE OF AND RESTRICTIONS REGARDING
THE PREMISES**

1. **License for Premises:** In addition to the availability of the room in the buildings mentioned in **Facilities/Office Space** article of this Contract/Agreement and once requested and approved by the DEPARTMENT, the AGENCY shall have the non-exclusive license over, upon and across the Premises, together with the common areas to allow AGENCY access and use of the Premises. The AGENCY shall be entitled to use the Premises without charge. The COUNTY will provide the AGENCY with office furniture and equipment, including a desk, chairs, a file cabinet and a telephone. The AGENCY accepts the Premises in "as is" condition. The AGENCY shall establish procedures with regard to space utilization and permitted uses. Said procedures shall include, but not be limited to, coordination between the COUNTY and the AGENCY of said use. The AGENCY shall, at AGENCY'S sole cost and expense, comply with all regulations of federal, state, county, municipal and other applicable governmental authorities, now in force or which may hereafter be in force, pertaining to the AGENCY or its use of the Premises, and shall faithfully observe in the use of the Premises all municipal and county ordinances and state and federal statutes now in force or which may hereafter be in force.
2. **Additional Uses:** The AGENCY shall not use, permit or suffer the use of the Premises or any other part of the premises for any other business or purpose whatsoever, except as specifically set forth in this Contract/Agreement and this exhibit without the prior written approval of the Director of the COUNTY'S Department of Facilities Development & Operations.
3. **Improvements, Maintenance, Repairs and Utilities:** The COUNTY shall maintain, repair and keep the Premises in good condition and repair at COUNTY'S sole cost and expense; provided however, in the event the AGENCY damages the Premises, COUNTY shall complete the necessary repairs and the AGENCY shall reimburse COUNTY for all expenses incurred by COUNTY in doing so. Furthermore, COUNTY shall provide utilities and janitorial services to the Premises that are necessary for the Premises to be used for general office purposes. In no event shall COUNTY be liable for an interruption or failure in the supply of any utilities to the Premises. No improvements, alterations or additions to the Premises shall be performed by the AGENCY.
4. **Waste and Nuisance:** The AGENCY shall not commit or suffer to be committed any waste or nuisance or other act or thing which may result in damage or depreciation of value of the Premises or which may affect COUNTY'S fee interest in the Premises. The AGENCY shall not store or dispose of any contaminants including, but not limited to, hazardous or toxic substances, chemicals or other agents on the Premises.
5. **COUNTY'S Right to Enter:** COUNTY shall have the right to enter the Premises at any time necessary, without notice, to implement its responsibilities pursuant to this Contract/Agreement and for purposes of inspection of the Premises generally.
6. **Revocation of License:** Notwithstanding anything to the contrary contained in this Contract/Agreement, the rights to use COUNTY property granted to the AGENCY in this Contract/Agreement and this exhibit amount only to a license to use the Premises, which license is expressly revocable by COUNTY for any reason whatsoever upon notice to the AGENCY. Upon AGENCY'S receipt of notice from COUNTY of the revocation of the license granted hereby, the AGENCY shall vacate the Premises within thirty (30) days, whereupon the AGENCY'S rights of use pursuant to this Contract/Agreement and this exhibit shall terminate and COUNTY shall be relieved of all further obligations hereunder accruing subsequent to the date of such termination.

EXHIBIT F

7. **Surrender of Premises:** Upon expiration or earlier termination of the AGENCY'S license to use the Premises, the AGENCY, at its sole cost and expense, shall remove all of its personal property from the Premises and shall surrender the Premises to the COUNTY in at least the same condition the Premises were in as of the date of this Contract/Agreement, reasonable wear and tear excepted.

Indemnity: To the extent permitted by law, AGENCY shall indemnify, defend and save COUNTY, its agents, officers, and employees harmless from and against any and all claims, actions, damages, liability and expense, whether at trial or appellate level or otherwise, in connection with loss of life, personal injury and/or damage to or destruction of property arising from or out of the occupancy or use by AGENCY of the Premises or any part thereof; or any act, error or omission of AGENCY, its agents, contractors, employees, volunteers or invitees. In case COUNTY shall be made a party to any litigation commenced against AGENCY or by AGENCY against any third party, then AGENCY shall protect and hold COUNTY, its agents, officers, and employees harmless and pay all costs and attorney's fees incurred by COUNTY in connection with such litigation, whether at trial or appellate level or otherwise. This Section shall survive termination or expiration of this Contract/Agreement. Nothing herein shall be construed as a waiver of sovereign immunity or the statutory limits of liability set forth in section 768.28, Florida Statutes.

EXHIBIT G

CERTIFICATION REGARDING LOBBYING
BYRD ANTI-LOBBYING AMENDMENT
This Required Certification MUST be Submitted

The undersigned Vendor certifies, to the best of his or her knowledge, that:

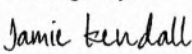
1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Vendor, Palm Beach County Food Bank, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 et seq., apply to this certification and disclosure, if any.

DocuSigned by:

D128150E9CBB403

Signature of Vendor's Authorized Official

Jamie Kendall, CEO
Name and Title of Vendor's Authorized Official

10/14/2022
Date

EXHIBIT H

**CERTIFICATION
DEBARMENT AND SUSPENSION**

The Vendor certifies that:

- a. This contract is a covered transaction for purposes of 2 C.F.R. 180 and 2 C.F.R. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. 80.995), or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. 180.935).
- b. The contractor must comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- c. This certification is a material representation of fact relied upon by County (subgrantee). If it is later determined that the contractor did not comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C, in addition to remedies available to County, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- d. The Vendor agrees to comply with the requirements of 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions.

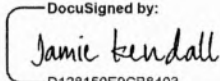
COMPANY NAME: Palm Beach County Food Bank, Inc.

ADDRESS: 700 A-2 Boutwell, Suite A-2 Lake Worth, Florida 33461

COMPANY'S AUTHORIZED OFFICIAL:

Jamie Kendall, CEO

Name and Title

DocuSigned by:

D128150E9CB8403...

Signature

10/14/2022

Date