



**II. FISCAL IMPACT ANALYSIS**

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

Fiscal Years	2023	2024	2025	2026	2027
Capital Expenditures					
Operating Costs	\$70,000				
External Revenue					
Program Income					
In-Kind Match (County)					
<b>NET FISCAL IMPACT</b>	<b>\$70,000</b>				

# ADDITIONAL FTE POSITIONS (Cumulative)					
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Is Item Included In Current Budget? Yes X No       
 Does this item include the use of federal funds? Yes      No X

Budget Account No.:  
 Fund 0001\_\_ Dept. 760\_\_ Unit 7601\_\_ Object 3125\_\_ Program Code \_\_ Program Period \_\_

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

**C. Departmental Fiscal Review:** \_\_\_\_\_

**III. REVIEW COMMENTS**

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

Lucas Miller 5/11/2023  
 OFMB ~~GA~~ 41810  
 MG ~~41810~~ 511

Ar. S. Javelan 5/19/23  
 Contract Development and Control  
 Tmd 5/19/23

**B. Legal Sufficiency:**

Helene Colby 5-15-23  
 Senior Assistant County Attorney

**C. Other Department Review:**

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

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

SECOND AMENDMENT

SECOND AMENDMENT TO  
CONTRACT FOR PROFESSIONAL LEGAL SERVICES  
BY AND BETWEEN  
PALM BEACH COUNTY AND FURR AND COHEN, P.A.

THIS SECOND AMENDMENT TO CONTRACT FOR PROFESSIONAL LEGAL SERVICES is made and entered into on the 6<sup>th</sup> day of June, 2023 by and between Palm Beach County, a political subdivision of the State of Florida, by and through its Board of Commissioners, hereinafter referred to as COUNTY, and Furr and Cohen, P.A., whose Federal ID is 59-2313865, hereinafter referred to as OUTSIDE COUNSEL, collectively referred to hereinafter as the Parties.

**WHEREAS**, the Parties entered into a Contract for Professional Legal Services on January 10, 2022, (the Contract), a copy of which is attached hereto and incorporated herein by reference; and

**WHEREAS**, the Contract engaged OUTSIDE COUNSEL to provide pre-suit legal services and representation to the COUNTY, which is one of several taxing authorities against which a law suit was threatened by the Trustee in the bankruptcy case of In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter); and

**WHEREAS**, the Contract provided for a shared fee arrangement between OUTSIDE COUNSEL, the COUNTY, and the several taxing authorities involved in the threatened lawsuit, including: Children's Services Council of Palm Beach County, Town of Palm Beach, Health Care District of Palm Beach County, and The School District of Palm Beach County (Taxing Authorities) in the above-referenced SARC Bankruptcy Matter; and

**WHEREAS**, the trustee in the SARC Bankruptcy Matter alleged that taxes paid in 2013 and 2014 were fraudulent transfers made by individuals engaged in a Ponzi scheme, and sought the return of approximately \$438,000.00 from the Taxing Authorities, including approximately \$125,000.00 from the COUNTY; and

**WHEREAS**, the Contract provided that the Taxing Authorities would split the hourly fee charged by OUTSIDE COUNSEL according to the percentages of their potential liability: Children's Services Council of Palm Beach County – 3.99%; Town of Palm Beach – 18.44%; Health Care District of Palm Beach County – 6.13%; The School District of Palm Beach County – 43.13%; and Palm Beach County – 28.31%; and

**WHEREAS**, the COUNTY'S Contract with OUTSIDE COUNSEL had a not-to-exceed contract amount of \$10,000.00; and

**WHEREAS**, OUTSIDE COUNSEL'S pre-suit representation of the Taxing Authorities ended on June 16, 2022, when the Trustee in the SARC Bankruptcy Matter filed a complaint against the Taxing Authorities; and

**WHEREAS**, the parties amended their contract on June 16, 2022, (First Amendment), attached hereto and incorporated herein by reference, to expand the scope of legal representation provided by OUTSIDE COUNSEL to include defense of the claim filed against the COUNTY and the Taxing Authorities, and to increase the not-to-exceed contract amount to \$40,000.00; and

**WHEREAS**, the need exists to increase the not-to-exceed contract amount to \$70,000.00 which the Parties estimate will be sufficient to provide for legal representation, including expert forensic accountant fees, through the filing of, and ruling on, motions for summary judgment on behalf of the Taxing Authorities.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements expressed herein the parties agree as follows:

- I.** The foregoing recitals are true and correct and incorporated herein by reference.
- II.** The first sentence of paragraph A. of **ARTICLE 3. FEES** is hereby amended to read as follows:
  - A.** COUNTY shall pay to OUTSIDE COUNSEL for Legal Services rendered on a per hour basis, at a rate of twenty-eight and thirty-one one-hundredths percent (28.31%) of the total hourly rate billed to the Taxing Authorities, as set forth in **EXHIBIT A1**, attached hereto and incorporated herein by reference, a total amount not-to-exceed Seventy Thousand Dollars and Zero Cents (\$70,000.00).
- III.** All other provisions of the Contract and First Amendment not modified in this Second Amendment remain in full force and effect.

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

ATTEST:

JOSEPH ABRUZZO, CLERK OF THE  
CIRCUIT COURT & COMPTROLLER

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

COUNTY:

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:

By: \_\_\_\_\_  
Gregg K. Weiss, Mayor

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: *Helene C. Hingst*  
Assistant County Attorney

WITNESS:

*Carol Tucci*  
Signature

CAROL TUCCI  
Name (type or print)

Furr and Cohen, P.A.:

*Robert C. Furr*  
Signature and Title

Robert C. Furr  
Name (type or print)

**EXHIBIT A1**  
**SCOPE OF WORK/SERVICES**

- 4.1 OUTSIDE COUNSEL shall represent the County in In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter).
- 4.2 OUTSIDE COUNSEL shall provide to the COUNTY and the County Attorney's Office any information related to the services performed under the Scope of Work upon request from the COUNTY or the County Attorney's Office including a summary report of all activities undertaken, if requested.
- 4.3 The COUNTY and the County Attorney's Office shall be notified and consulted upon any potential for resolution of The SARC Bankruptcy Case. Any potential settlement, as to the potential claim against the COUNTY, is subject to the COUNTY's approval.
- 4.4 OUTSIDE COUNSEL acknowledges and agrees that any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL on COUNTY's behalf shall be done so based solely on the COUNTY's reliance on OUTSIDE COUNSEL's expertise, judgment, and recommendation. Accordingly, should attorney's fees, costs, interest, penalties, and/or damages of any kind be awarded or entered against the COUNTY in, or arising from, any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL, including appeals and counterclaims, then OUTSIDE COUNSEL shall assume responsibility for such, and shall promptly indemnify, and remit payment to, COUNTY to fully cover the amounts of any and all such attorney's fees, costs, interest, penalties, and/or damages of any kind, and otherwise make the COUNTY whole.
- 4.5 OUTSIDE COUNSEL shall be familiar with, and shall comply with, all laws and regulations applicable to the services contemplated herein.
- 4.7 The COUNTY reserves the right to terminate this Contract upon notice as provided for in the Contract. Except in the event that the COUNTY terminates this Contract for good cause, OUTSIDE COUNSEL shall be entitled to reasonable legal fees for the actual legal services provided by OUTSIDE COUNSEL prior to termination of this Contract, but only if the COUNTY obtains any monetary recovery as a result of claims litigated by OUTSIDE COUNSEL prior to termination of this Contract.
- 4.8 Hourly Fees as referenced in Article 2 shall be as follows, with COUNTY paying twenty-eight and thirty-one one-hundredths percent (28.31%) of the total hourly rate billed by OUTSIDE COUNSEL to the Taxing Authorities:
- |                  |          |
|------------------|----------|
| Charles I. Cohen | \$500.00 |
| Robert Furr      | \$500.00 |
| Alvin Goldstein  | \$500.00 |

**FIRST AMENDMENT**

**FIRST AMENDMENT TO  
CONTRACT FOR PROFESSIONAL LEGAL SERVICES  
BY AND BETWEEN  
PALM BEACH COUNTY AND FURR COHEN, P.A.**

THIS FIRST AMENDMENT TO CONTRACT FOR PROFESSIONAL LEGAL SERVICES is made and entered into on the 16th day of June, 2022 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 COUNTY, and Furr Cohen, P.A., whose Federal ID is 59-2313865, hereinafter referred to as OUTSIDE COUNSEL, collectively referred to hereinafter as the Parties.

**WHEREAS**, the Parties entered into a Contract for Professional Legal Services on January 10, 2022, (the Contract), a copy of which is attached hereto and incorporated herein by reference; and

**WHEREAS**, the Contract engaged OUTSIDE COUNSEL to provide pre-suit legal services and representation to the COUNTY, which is one of several taxing authorities against which a law suit was threatened by the Trustee in the bankruptcy case of In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter); and

**WHEREAS**, the Contract provided for a shared fee arrangement between OUTSIDE COUNSEL, the COUNTY, and the several taxing authorities involved in the threatened lawsuit, including: Children's Services Council of Palm Beach County, Town of Palm Beach, Health Care District of Palm Beach County, and The School District of Palm Beach County (Taxing Authorities) in the above-referenced SARC Bankruptcy Matter; and

**WHEREAS**, the Contract provided that the Taxing Authorities would split the hourly fee charged by OUTSIDE COUNSEL according to the following percentages: Children's Services Council of Palm Beach County – 3.99%; Town of Palm Beach – 18.44%; Health Care District of Palm Beach County – 6.13%; The School District of Palm Beach County – 43.13%; and Palm Beach County – 28.31%; and

**WHEREAS**, the Trustee in the SARC Bankruptcy Matter filed a complaint against the Taxing Authorities on June 16, 2022; and

**WHEREAS**, the COUNTY wishes to amend the Contract to expand the scope of legal representation provided by OUTSIDE COUNSEL to include defense of the claim filed against the COUNTY and the Taxing Authorities in the SARC Bankruptcy Matter, and to increase the not-to-exceed contract amount.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements expressed herein the parties agree as follows:

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

**II.** The first sentence of **ARTICLE 2. LEGAL SERVICES** is hereby amended to read as follows:

OUTSIDE COUNSEL shall perform outside legal counsel services (Legal Services), from initiation to conclusion, on behalf of the COUNTY, in conjunction with OUTSIDE COUNSEL'S provision of Legal Services to the Taxing Authorities named in the complaint filed in In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19025762-EPK (SARC Bankruptcy Matter).

**III.** The first sentence of paragraph A. of **ARTICLE 3. FEES** is hereby amended to read as follows:

A. COUNTY shall pay to OUTSIDE COUNSEL for Legal Services rendered on a per hour basis, at a rate of twenty-eight and thirty-one one-hundredths percent (28.31%) of the total hourly rate billed to the Taxing Authorities, as set forth in **EXHIBIT A1**, attached hereto and incorporated herein by reference, a total amount not-to-exceed Forty Thousand Dollars and Zero Cents (\$40,000.00).

**IV.** The first sentence of paragraph A. of **ARTICLE 6. TERM; TERMINATION** is hereby amended to read as follows:

A. This Contract shall be effective as of January 10, 2022, and shall remain in place until the conclusion of the SARC Bankruptcy Matter; provided, however, that this Contract may be sooner terminated as provided for herein.

**V.** **ARTICLE 26 – E-VERIFY - EMPLOYMENT ELIGIBILITY** is replaced in its entirety with the following:



**ARTICLE 26 – E-VERIFY - EMPLOYMENT ELIGIBILITY**

OUTSIDE COUNSEL 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 OUTSIDE COUNSEL'S subconsultants performing the duties and obligations of this CONTRACT are registered with the E-Verify System, and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

OUTSIDE COUNSEL 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. CONSULTANT shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this CONTRACT which requires a longer retention period.

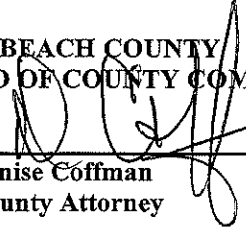
COUNTY shall terminate this CONTRACT if it has a good faith belief that OUTSIDE COUNSEL has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If COUNTY has a good faith belief that OUTSIDE COUNSEL'S subconsultant has knowingly violated section 448.09(1), Florida Statutes, as may be amended, COUNTY shall notify OUTSIDE COUNSEL to terminate its contract with the subconsultant and OUTSIDE COUNSEL shall immediately terminate its contract with the subconsultant. If COUNTY terminates this CONTRACT pursuant to the above, OUTSIDE COUNSEL 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, OUTSIDE COUNSEL shall also be liable for any additional costs incurred by COUNTY as a result of the termination.


**VI.** EXHIBIT A is hereby replaced with EXHIBIT A1, attached hereto and incorporated herein by reference.


**VII.** All other provisions of the Contract not modified in this First Amendment remain in full force and effect.

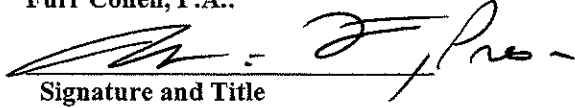
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IN WITNESS WHEREOF, the Board of County Commissioners of Palm Beach County, Florida has made and executed this Contract on behalf of the COUNTY and OUTSIDE COUNSEL has hereunto set its hand the day and year above written.

PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:  
By:   
Denise Coffman  
County Attorney

APPROVED AS TO  
LEGAL SUFFICIENCY  
By:   
County Attorney

WITNESS:  
  
Signature  
DARLENE G. ANDERSON  
Name (type or print)

Furr Cohen, P.A.:  
  
Signature and Title  
Robert C. Furr  
Name (type or print)

**EXHIBIT A1**  
**SCOPE OF WORK/SERVICES**

- 4.1 OUTSIDE COUNSEL shall represent the County in In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter).
- 4.2 OUTSIDE COUNSEL shall provide to the COUNTY and the County Attorney's Office any information related to the services performed under the Scope of Work upon request from the COUNTY or the County Attorney's Office including a summary report of all activities undertaken, if requested.
- 4.3 The COUNTY and the County Attorney's Office shall be notified and consulted upon any potential for resolution of The SARC Bankruptcy Case. Any potential settlement, as to the potential claim against the COUNTY, is subject to the COUNTY's approval.
- 4.4 OUTSIDE COUNSEL acknowledges and agrees that any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL on COUNTY's behalf shall be done so based solely on the COUNTY's reliance on OUTSIDE COUNSEL's expertise, judgment, and recommendation. Accordingly, should attorney's fees, costs, interest, penalties, and/or damages of any kind be awarded or entered against the COUNTY in, or arising from, any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL, including appeals and counterclaims, then OUTSIDE COUNSEL shall assume responsibility for such, and shall promptly indemnify, and remit payment to, COUNTY to fully cover the amounts of any and all such attorney's fees, costs, interest, penalties, and/or damages of any kind, and otherwise make the COUNTY whole.
- 4.5 OUTSIDE COUNSEL shall be familiar with, and shall comply with, all laws and regulations applicable to the services contemplated herein.
- 4.7 The COUNTY reserves the right to terminate this Contract upon notice as provided for in the Contract. Except in the event that the COUNTY terminates this Contract for good cause, OUTSIDE COUNSEL shall be entitled to reasonable legal fees for the actual legal services provided by OUTSIDE COUNSEL prior to termination of this Contract, but only if the COUNTY obtains any monetary recovery as a result of claims litigated by OUTSIDE COUNSEL prior to termination of this Contract.
- 4.8 Hourly Fees as referenced in Article 2 shall be as follows, with COUNTY paying twenty-eight and thirty-one one-hundredths percent (28.31%) of the total hourly rate billed by OUTSIDE COUNSEL to the Taxing Authorities:
- |                  |          |
|------------------|----------|
| Charles I. Cohen | \$500.00 |
| Robert Furr      | \$500.00 |
| Alvin Goldstein  | \$500.00 |

**CONTRACT FOR PROFESSIONAL LEGAL SERVICES  
BY AND BETWEEN  
PALM BEACH COUNTY AND  
FURR COHEN, P.A.**

THIS CONTRACT is made and entered into on the 10 day of June, 2014 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 COUNTY, and Furr Cohen, P.A., hereinafter referred to as OUTSIDE COUNSEL whose Federal ID is 59-2313865.

**WHEREAS**, the COUNTY desires to engage OUTSIDE COUNSEL to provide legal services, advice and representation to the COUNTY, which is one of several taxing authorities against which a law suit has been threatened by the Trustee in the bankruptcy case of In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter); and

**WHEREAS**, OUTSIDE COUNSEL desires to provide legal services, advice and representation to the COUNTY, as well as to several other taxing authorities against whom a law suit has been threatened, including: Children's Services Council of Palm Beach County, Town of Palm Beach, Health Care District of Palm Beach County, and The School District of Palm Beach County (Taxing Authorities) in the above-referenced SARC Bankruptcy Matter; and

**WHEREAS**, the Taxing Authorities will be splitting the hourly fee charged by OUTSIDE COUNSEL according to the following percentages: Children's Services Council of Palm Beach County – 3.99%; Town of Palm Beach – 18.44%; Health Care District of Palm Beach County – 6.13%; The School District of Palm Beach County – 43.13%; Palm Beach County – 28.31%.

**NOW, THEREFORE**, in consideration of the mutual covenants and agreements expressed herein the parties agree as follows:

**ARTICLE 1. RECITALS INCORPORATED**

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

**ARTICLE 2. LEGAL SERVICES**

OUTSIDE COUNSEL shall perform outside legal counsel services (Legal Services), to include investigation of the merits of a potential claim against the Taxing Authorities, including the COUNTY, and pre-suit representation of the COUNTY in In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter). The lawyers primarily handling this matter on behalf of the Taxing Authorities, including the COUNTY, are Charles I. Cohen, Robert Furr, and Alvin Goldstein, who will be assisted by other partners, associates, and staff as needed.

**ARTICLE 3. FEES**

A. COUNTY shall pay to OUTSIDE COUNSEL for Legal Services rendered on a per hour basis, at a rate of twenty-eight and thirty-one one-hundredths percent (28.31%) of the total hourly rate billed to the Taxing Authorities, as set forth in **EXHIBIT A**, attached hereto and incorporated herein by reference, a total amount not-to-exceed Ten Thousand Dollars (\$10,000.00). Monthly bills shall be submitted by OUTSIDE COUNSEL to the Palm Beach County Attorney's Office (County Attorney's office) for review and approval prior to payment. Each item shall be separately billed, specifically describing the work performed, and reflecting the actual time spent on each such matter. OUTSIDE COUNSEL shall bill County for work performed in tenth of an hour increments. OUTSIDE COUNSEL shall notify COUNTY when the billable fees and costs reach ninety percent (90%) of the not-to-exceed amount provided for herein. Notification shall be made as soon as practicable and prior to the next monthly invoice.

B. It is anticipated that OUTSIDE COUNSEL will attempt whenever possible to achieve cost effectiveness by limiting travel, streamlining case processing, using printed forms, using the appropriate level of attorney or staff experience required by task and taking other actions to improve efficiency.

C. Multiple staffing of attorneys at meetings and depositions by Attorney will not be compensated unless prior written approval has been obtained from the County Attorney.

D. Final Invoice: In order for both parties herein to close their books and records, the OUTSIDE COUNSEL will clearly state "final invoice" on OUTSIDE COUNSEL'S final/last billing to the COUNTY. This shall constitute OUTSIDE COUNSEL'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 OUTSIDE COUNSEL.

E. In order to do business with Palm Beach County, OUTSIDE COUNSEL is 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 OUTSIDE COUNSEL intends to use sub-consultants, OUTSIDE COUNSEL 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 OUTSIDE COUNSEL and all of its sub-consultants are registered in VSS.

#### **ARTICLE 4. EXPENSES AND COSTS**

A. COUNTY will reimburse OUTSIDE COUNSEL for twenty-eight and thirty-one one-hundredths percent (28.31%) of its reasonable and necessary expenses and costs incurred during the course of providing Legal Services representing the following taxing authorities in the SARC Bankruptcy Matter: Children's Services Council of Palm Beach County, Town of Palm Beach, Health Care District of Palm Beach County, and The School District of Palm Beach County. The expenses and costs may include, but are not limited to, out-of-pocket expenses for extraordinary photocopying projects, not to exceed fifteen cents (\$.15) per page, courier charges, express mail, long-distance telephone charges, postage, and printing. COUNTY will only reimburse OUTSIDE COUNSEL expenses that have previously been approved in writing by the County Attorney's Office. Court filing fees and costs, witness fees, and previously approved travel shall be itemized and invoiced separately.

B. All requests for payment of expenses eligible for reimbursement under this Contract shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Clerk & Comptroller's Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Legal Services. Long-distance telephone calls shall identify the person(s) called, purpose of call, time and cost. Photocopying or printing charges shall give a general description of documents copied or printed and the rate charged. Mileage charges shall identify the destination, numbers of miles,

rate, and purpose of travel. Any out-of-county travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Contract shall be approved in writing by the County Attorney or designee, in advance, and paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes, and all applicable policies and procedures established by the COUNTY.

C. COUNTY shall not be responsible for the costs of any computerized legal research other than the actual billable hourly rate of OUTSIDE COUNSEL.

D. Fees and costs of experts employed in the course of the litigation, if any, are not included in this contract as such experts shall enter into a separate agreement with the County.

E. The total amount of reimbursable out-of-pocket expenses and costs shall not exceed Five Hundred Dollars (\$500.00). The reimbursable out-of-pocket expenses and costs provided for in this Article are included within the total not-to-exceed Contract amount provided for in Article 2 of this Contract, and are not in addition to the not-to-exceed Contract amount.

F. OUTSIDE COUNSEL covenants and agrees that any other type of billing or timekeeping which allows compensation for the time not actually spent by OUTSIDE COUNSEL is not permitted under this agreement. Therefore, it shall be a material breach of the terms of this Agreement for OUTSIDE COUNSEL to submit for payment any statement of services rendered that either (1) overstates the amount of time actually spent pursuant to this contract, or (2) includes time spent by a person not affiliated with OUTSIDE COUNSEL. Each statement of costs and fees represents an implied warranty that the statement sets forth only the actual time spent and only the actual costs incurred. The COUNTY may rely on the implied warranty.

G. No reimbursement will be made for travel expenses incurred by OUTSIDE COUNSEL to, from, or within Palm Beach County without the prior written authorization of the County Attorney or designee.

#### **ARTICLE 5. DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

A. OUTSIDE COUNSEL shall maintain its files on this matter, including adequate records to justify all charges, expenses, and costs incurred in performing the Legal Services, for at least five (5) years after termination of this Contract. The COUNTY shall have access to such books, records, and documents as required in this paragraph for the purpose of inspection and/or audit

during OUTSIDE COUNSEL'S normal business hours, at COUNTY's expense, upon reasonable written notice to OUTSIDE COUNSEL.

B. OUTSIDE COUNSEL shall provide status reports, either oral or in writing, at the request of the County Attorney's Office. OUTSIDE COUNSEL shall deliver to the County Attorney's Office 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 in the course of providing the LEGAL SERVICES.

C. All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by COUNTY or at its expense shall be kept confidential by OUTSIDE COUNSEL and shall not be disclosed to any other party, directly or indirectly without COUNTY'S prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction. All drawings, maps and sketches and other data developed or purchased under this Contract or at COUNTY'S expense shall be and remain COUNTY'S property and may be reproduced and may be reproduced and reused solely at the discretion of the COUNTY.

D. 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.

E. OUTSIDE COUNSEL has been advised that the COUNTY and all its activities are subject to the Public Records Law (Chapter 119, Florida Statutes) and the Sunshine Law (Section 286.011, Florida Statutes). OUTSIDE COUNSEL shall observe and comply with the requirements of these laws and all related COUNTY policies and procedures in performing the LEGAL SERVICES hereunder.

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

1. Keep and maintain public records required by the COUNTY to perform the service.



2. 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, Florida Statutes, or as otherwise provided by law. OUTSIDE COUNSEL 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.
3. 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 this Contract's term and following completion of this Contract if OUTSIDE COUNSEL does not transfer the records to the COUNTY.
4. Upon completion of this Contract, OUTSIDE COUNSEL shall transfer, at no cost, to the COUNTY, all public records in possession of OUTSIDE COUNSEL 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 OUTSIDE COUNSEL transfers all public records to the COUNTY upon completion of this Contract, OUTSIDE COUNSEL shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If OUTSIDE COUNSEL keeps and maintains public records upon completion of this Contract, OUTSIDE COUNSEL shall meet all applicable requirements for retaining public records. All records stored electronically by OUTSIDE COUNSEL must be provided to the COUNTY, upon request of the COUNTY's Custodian of Public Records, in a format that is compatible with the information technology systems of the COUNTY, at no cost to the COUNTY.

Failure of OUTSIDE COUNSEL to comply with the requirements of this subsection shall be a material breach of this Contract. The 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. OUTSIDE COUNSEL 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 OUTSIDE COUNSEL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO OUTSIDE COUNSEL'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, PLEASE CONTACT THE COUNTY'S 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 OR BY TELEPHONE AT 561-355-6680.**

**ARTICLE 6. TERM; TERMINATION**

A. This Contract shall be effective as of September 15, 2021, and shall remain in place until the Taxing Authorities, or the COUNTY, reach a pre-suit settlement with the Trustee in the SARC Bankruptcy Matter, or until the Trustee in the SARC Bankruptcy Matter files suit against the COUNTY, whichever occurs first; provided, however, that this Contract may be sooner terminated as provided for herein.

B. This Contract may be terminated by the COUNTY, with or without cause, upon ten (10) days' written notice to OUTSIDE COUNSEL. The Contract may be terminated by OUTSIDE COUNSEL upon ninety (60) days' written notice to the COUNTY so long as such termination is consistent with attorney's professional obligations. Upon termination by either party, OUTSIDE COUNSEL shall transfer to the COUNTY all work in progress, completed work, and other materials related to the legal services rendered under this Contract.

C. If OUTSIDE COUNSEL terminates this Contract before completion of any pending litigation being handled pursuant to this Contract, it shall not seek, nor be awarded, any further work as OUTSIDE COUNSEL for the COUNTY on this or any other matter.

**ARTICLE 7. OFFICE OF INSPECTOR GENERAL**

Palm Beach County has established the Office of the Inspector General as contained in the Palm Beach County Code, Sections 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, account and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the OUTSIDE COUNSEL, 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 or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-241 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

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

OUTSIDE COUNSEL shall maintain, at its sole expense, in full force and effect at all times during the life of this Contract, insurance coverages 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 OUTSIDE COUNSEL, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by OUTSIDE COUNSEL under the Contract. OUTSIDE COUNSEL 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: OUTSIDE COUNSEL shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by County's Risk Management Department. OUTSIDE COUNSEL shall provide this coverage on a primary basis.

B. Worker's Compensation Insurance & Employers Liability: OUTSIDE COUNSEL shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. OUTSIDE COUNSEL shall provide this coverage on a primary basis.

C. Professional Liability: OUTSIDE COUNSEL 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 OUTSIDE COUNSEL'S most recent annual report or audited financial statement. For

policies written on a "Claims-Made" basis, OUTSIDE COUNSEL 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, OUTSIDE COUNSEL 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 OUTSIDE COUNSEL of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

D. Waiver of Subrogation: OUTSIDE COUNSEL hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement to the policy, then OUTSIDE COUNSEL 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 which specifically prohibits such an endorsement or voids coverage should OUTSIDE COUNSEL enter into such an agreement on a pre-loss basis.

E. 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 Agreement, OUTSIDE COUNSEL shall deliver to the COUNTY or COUNTY's designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this Contract have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners

And may be addressed:

c/o Department

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

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

**ARTICLE 9. INDEMNIFICATION**

OUTSIDE COUNSEL acknowledges and agrees that any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL on COUNTY'S behalf shall be done so based solely on the COUNTY'S reliance on OUTSIDE COUNSEL'S expertise, judgment, and recommendation. Accordingly, should attorney's fees, costs, interest, penalties, and/or damages of any kind be awarded or entered against the COUNTY in, or arising from, any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL, including appeals and counterclaims, then OUTSIDE COUNSEL shall assume responsibility for such, and shall promptly indemnify, and remit payment to COUNTY to fully cover the amounts of any and all such attorney's fees, costs, interest, penalties, and/or damages of any kind, and otherwise make the COUNTY whole.

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

**ARTICLE 10. PERSONNEL**

OUTSIDE COUNSEL represents that it has, or will secure at its own expense, all necessary personnel required to perform the Legal Services as required herein. Such personnel shall not be employees of, or have any contractual relationship with, the COUNTY. The Legal Services shall be performed by Charles I. Cohen, Esq., Robert Furr, Esq., and Alvin Goldstein, Esq., or under their direct supervision. OUTSIDE COUNSEL may not substitute lead counsel without prior written authorization from the COUNTY. Such authorization shall be at the sole discretion of the COUNTY and is hereby delegated by the COUNTY to the County Attorney. All personnel engaged in performing the LEGAL SERVICES shall be fully qualified and, if required, authorized or permitted under federal, state, and local law to perform such services. Specifically, all lawyers

performing the LEGAL SERVICES must be members in good standing of an applicable state or Federal bar to perform any of the LEGAL SERVICES hereunder. OUTSIDE COUNSEL warrants that the LEGAL SERVICES shall be performed by skilled and competent personnel to the highest professional standards.

**ARTICLE 11. TRUTH-IN-NEGOTIATION CERTIFICATE**

OUTSIDE COUNSEL'S signature on this Contract shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete, and current as of the date of this Contract.

**ARTICLE 12. CONFLICT OF INTEREST**

A. OUTSIDE COUNSEL represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any matter with the performance of the Legal Services, as provided in the rules regulating the Florida Bar, Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. OUTSIDE COUNSEL further represents that no person having such conflict of interest shall be employed for said performance of services. OUTSIDE COUNSEL further agrees to comply with COUNTY PPM #CW-O-052 regarding outside counsel conflicts of interest, which is attached hereto as **Exhibit B** and incorporated herein.

B. OUTSIDE COUNSEL shall promptly notify the COUNTY 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 OUTSIDE COUNSEL's judgment or quality of the Legal Services being provided. Such written notification shall identify the prospective business association, interest, or circumstance, the nature of work that OUTSIDE COUNSEL 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 OUTSIDE COUNSEL. The COUNTY agrees to notify OUTSIDE COUNSEL of its opinion by certified mail within thirty (30) days of receipt of notification by OUTSIDE COUNSEL. If, in the opinion of the COUNTY, the prospective business association, interest, or circumstance would not constitute a conflict of interest by OUTSIDE COUNSEL, the COUNTY shall so state in the notification and OUTSIDE COUNSEL shall at its option, enter into said

association, interest, or circumstance and it shall be deemed not in conflict of interest with respect to the Legal Services.

**ARTICLE 13. INDEPENDENT CONTRACTOR RELATIONSHIP**

a) OUTSIDE COUNSEL and all its employees, agents, and servants are, and shall be, in the performance of the Legal Services under this Contract, independent contractors and not an employee of the COUNTY. All persons engaged in the Legal Services performed by OUTSIDE COUNSEL pursuant to this Contract shall at all times, and in all places, be subject to OUTSIDE COUNSEL'S sole discretion, supervision, and control. OUTSIDE COUNSEL shall exercise direct control over the means and manner in which it and its employees, agents, and servants perform the Legal Services. OUTSIDE COUNSEL does not have the power or authority to, and agrees that it will not attempt to, bind the COUNTY in any promise, contract, or representation other than as specifically provided for in this Contract.

b) OUTSIDE COUNSEL warrants and represents that it has not employed or retained any company or person, other than a bona fide employee working solely for OUTSIDE COUNSEL, 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 OUTSIDE COUNSEL, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract.

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

#### **ARTICLE 15. REMEDIES**

This Contract shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Contract shall be originally filed and later held in a court of competent jurisdiction in Palm Beach County, Florida. No remedy herein conferred upon the parties 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. The parties agree that time is of the essence in the performance of all obligations hereunder. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other 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 employee of the COUNTY and/or OUTSIDE COUNSEL.



**ARTICLE 16. NOTICE**

All notices required in this Contract shall be sent by mail to:

Palm Beach County Attorney's Office  
301 North Olive Avenue, Sixth Floor  
West Palm Beach, Florida 33401  
Attn: Helene C. Hvizd, Sr. Asst. County Attorney  
Email: hhvzd@pbcgov.org  
(Representative of the COUNTY)

If sent to OUTSIDE COUNSEL, the notice shall be mailed to:

Robert C. Furr, Esq.  
Furr Cohen, P.A.  
2255 Glades Road  
Suite 301 East  
Boca Raton, FL 33431  
Email: rfurr@furrcohen.com

**ARTICLE 17. CRIMINAL HISTORY RECORDS CHECK**

OUTSIDE COUNSEL, OUTSIDE COUNSEL's employees, subcontractors of OUTSIDE COUNSEL 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 R-2013-1470 and R2015-0572, as amended. OUTSIDE COUNSEL is solely responsible for understanding the financial, schedule, and/or staffing implications of this Ordinance. Further, OUTSIDE COUNSEL acknowledges that it shall be solely responsible for 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 above referenced Resolutions, as amended. COUNTY staff representing the COUNTY department will contact OUTSIDE COUNSEL and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. OUTSIDE COUNSEL 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 OUTSIDE COUNSEL or its subcontractor(s) terminates an employee who has been issued a badge,

OUTSIDE COUNSEL must notify the COUNTY within two (2) hours. At the time of termination, OUTSIDE COUNSEL shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend OUTSIDE COUNSEL if OUTSIDE COUNSEL: 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 OUTSIDE COUNSEL 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 18 - FEDERAL AND STATE TAX**

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

OUTSIDE COUNSEL 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 19 - AVAILABILITY OF FUNDS**

The COUNTY's performance and obligations to pay, if any, under this Contract are contingent upon an annual appropriation for its purpose by the Board of County Commissioners.

**ARTICLE 20 - SUCCESSORS AND ASSIGNS**

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

**ARTICLE 21 – ARREARS**

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

**ARTICLE 22 - PUBLIC ENTITY CRIMES**

As provided in section 287.132-133, Florida Statutes, by entering into this Contract or performing any work in furtherance hereof, OUTSIDE COUNSEL 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 thirty-six (36) months immediately preceding the date hereof. This notice is required by section 287.133(3)(a), Florida Statutes.

**ARTICLE 23 - SCRUTINIZED COMPANIES**

- A. As provided in F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, OUTSIDE COUNSEL 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 OUTSIDE COUNSEL 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 F.S. 287.135, by entering into this Contract or performing any work in furtherance hereof, OUTSIDE COUNSEL 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 OUTSIDE COUNSEL, this Contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of this Contract shall be imposed, pursuant to F.S. 287.135. Said certification must also be submitted at the time of Contract renewal, if applicable.

**ARTICLE 24 – REGULATIONS: LICENSING REQUIREMENTS**

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

**ARTICLE 25 - 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. OUTSIDE COUNSEL shall execute the Contract through manual means only, unless COUNTY agrees otherwise.

**ARTICLE 26 – E-VERIFY – EMPLOYMENT ELIGIBILITY**

OUTSIDE COUNSEL warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended, and that it: (1) is registered with the E-Verify System (E-Verify.gov), and beginning January 1, 2021, uses the E-Verify System to electronically verify the employment eligibility of all newly hired workers; and (2) has verified that all of OUTSIDE COUNSEL'S subconsultants performing the duties and obligations of this CONTRACT are registered with the E-Verify System, and beginning January 1, 2021, use the E-Verify System to electronically verify the employment eligibility of all newly hired workers.

OUTSIDE COUNSEL 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. OUTSIDE COUNSEL shall maintain a copy of any such affidavit from a subconsultant for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this CONTRACT which requires a longer retention period.

COUNTY shall terminate this CONTRACT if it has a good faith belief that OUTSIDE COUNSEL has knowingly violated Section 448.09(1), Florida Statutes, as may be amended. If COUNTY has a good faith belief that OUTSIDE COUNSEL'S subconsultant has knowingly violated section 448.09(1), Florida Statutes, as may be amended, COUNTY shall notify OUTSIDE COUNSEL to terminate its contract with the subconsultant and OUTSIDE COUNSEL shall immediately terminate its contract with the subconsultant. If COUNTY terminates this CONTRACT pursuant to the above, OUTSIDE COUNSEL 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, OUTSIDE COUNSEL shall also be liable for any additional costs incurred by COUNTY as a result of the termination.

#### **ARTICLE 27. 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 28. ENTIRETY OF CONTRACT**

The COUNTY and OUTSIDE COUNSEL 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 provision, terms and conditions contained in this Contract may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties.

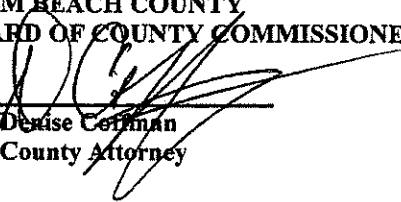
**ARTICLE 29. EXHIBITS**

All exhibits attached hereto and referenced herein shall be deemed to be incorporated into this Contract by reference.

**(Remainder of Page Intentionally Left Blank)**

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

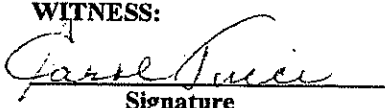
PALM BEACH COUNTY  
BOARD OF COUNTY COMMISSIONERS:

By:   
Denise Corman  
County Attorney

APPROVED AS TO  
LEGAL SUFFICIENCY


By: /s/ Helene C. Hvizd  
County Attorney

WITNESS:

  
Signature

CAROL TUCCI  
Name (type or print)

Furr Cohen, P.A.:

  
Signature and Title

Robert C. Furr  
Name (type or print)

**EXHIBIT A**  
**SCOPE OF WORK/SERVICES**

- 4.1 OUTSIDE COUNSEL shall represent the County in In re: South Atlantic Regional Center, LLC, in the United States Bankruptcy Court for the Southern District of Florida, Case No. 19-25762-EPK (SARC Bankruptcy Matter). Representation shall be for the following term: until the Taxing Authorities, or the COUNTY, reach a pre-suit settlement with the Trustee in the SARC Bankruptcy Matter, or until the Trustee in the SARC Bankruptcy Matter files suit against the COUNTY, whichever occurs first; provided, however, that this Contract may be sooner terminated as provided for herein.
- 4.2 OUTSIDE COUNSEL shall provide to the COUNTY and the County Attorney's Office any information related to the services performed under the Scope of Work upon request from the COUNTY or the County Attorney's Office including a summary report of all activities undertaken, if requested.
- 4.3 The COUNTY and the County Attorney's Office shall be notified and consulted upon any potential for resolution of The SARC Bankruptcy Case. Any potential settlement, as to the potential claim against the COUNTY, is subject to the COUNTY's approval.
- 4.4 OUTSIDE COUNSEL acknowledges and agrees that any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL on COUNTY's behalf shall be done so based solely on the COUNTY's reliance on OUTSIDE COUNSEL's expertise, judgment, and recommendation. Accordingly, should attorney's fees, costs, interest, penalties, and/or damages of any kind be awarded or entered against the COUNTY in, or arising from, any legal action initiated, undertaken, or continued by OUTSIDE COUNSEL, including appeals and counterclaims, then OUTSIDE COUNSEL shall assume responsibility for such, and shall promptly indemnify, and remit payment to, COUNTY to fully cover the amounts of any and all such attorney's fees, costs, interest, penalties, and/or damages of any kind, and otherwise make the COUNTY whole. (See also Section 2.16)
- 4.5 OUTSIDE COUNSEL shall be familiar with, and shall comply with, all laws and regulations applicable to the services contemplated herein.
- 4.7 The COUNTY reserves the right to terminate this Contract upon notice as provided for in the Contract. Except in the event that the COUNTY terminates this Contract for good cause, OUTSIDE COUNSEL shall be entitled to reasonable legal fees for the actual legal services provided by OUTSIDE COUNSEL prior to termination of this Contract, but only if the COUNTY obtains any monetary recovery as a result of claims litigated by OUTSIDE COUNSEL prior to termination of this Contract.
- 4.8 Hourly Fees as referenced in Article 2 shall be as follows, with COUNTY paying twenty-eight and thirty-one one-hundredths percent (28.31%) of the total hourly rate billed by OUTSIDE COUNSEL to the Taxing Authorities:



Charles I. Cohen	\$500.00
Robert Furr	\$500.00
Alvin Goldstein	\$500.00

## EXHIBIT B

**TO:** ALL COUNTY PERSONNEL  
**FROM:** VERDENIA C. BAKER  
COUNTY ADMINISTRATOR  
**PREPARED BY:** COUNTY ATTORNEY'S OFFICE  
**SUBJECT:** OUTSIDE COUNSEL CONFLICTS OF INTEREST  
**PPM #:** CW-O-052

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<u>ISSUE DATE</u>	<u>EFFECTIVE DATE</u>
January 4, 2017	January 4, 2017

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**PURPOSE:** The purpose of this memorandum is to establish the Board of County Commissioners' policy regarding actual and potential conflicts of interest of outside counsel representing Palm Beach County.

**UPDATES:**

Future updates of this PPM are the responsibility of the County Attorney.

**AUTHORITY:**

Rule 4-1.7, Rules Regulating the Florida Bar.

**POLICY:** The policy of Palm Beach County is to eliminate and limit conflicts of interest by outside counsel in order to prevent the occurrence of all adverse conflicts, resolve any conflicts that may otherwise arise during representation, and to provide a procedure to waive and consent to apparent conflicts of interest which would not adversely affect the interests of Palm Beach County.

Rule 4-1.7 (a) and (b) of the Rules Regulating the Florida Bar provides:

- “(a) Representing Adverse Interests. Except as provided in subdivision (b), a lawyer must not represent a client if:
- (1) the representation of 1 client will be directly adverse to another client; or
  - (2) there is a substantial risk that the representation of 1 or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

CW-O-052/Page 1 of 3

- (b) Informed Consent. Notwithstanding the existence of a conflict of interest under subdivision (a), a lawyer may represent a client if:
- (1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;
  - (2) the representation is not prohibited by law;
  - (3) the representation does not involve the assertion of a position adverse to another client when the lawyer represents both clients in the same proceeding before a tribunal; and
  - (4) each affected client gives informed consent, confirmed in writing or clearly stated on the record at a hearing.”

Under Rule 4-1.7 it is the responsibility of the lawyer to determine if undertaking the representation of a client constitutes a conflict of interest. If a lawyer representing Palm Beach County becomes aware of a conflict or potential conflict, such lawyer shall immediately notify the County Attorney in writing of the circumstances of such conflict of interest and the action which the lawyer is taking to resolve such conflict. It is the individual lawyer's responsibility to comply with the Standards of Conduct established by the Florida Supreme Court (Rule 3-4).

Any lawyer<sup>1</sup> undertaking representation of Palm Beach County shall not represent any other client with regard to any litigation or other adversary proceeding in which Palm Beach County, a County Commissioner or a county employee (acting in their capacity as a county employee) is named as an adverse party.

All law firms serving as bond counsel or disclosure counsel as selected by the Board of County Commissioners are precluded from serving as underwriter's counsel on any Palm Beach County bond issue. This prohibition includes all law firms serving as bond counsel or disclosure counsel for issues in which Palm Beach County is a conduit issuer.

A lawyer representing Palm Beach County who has undertaken, or wishes to undertake, representation of a client who has matters or transactions with Palm Beach County which the lawyer believes will not adversely affect his representation of the County shall apply to the County for a waiver under Rule 4-1.7. Examples of waivable conflicts would include representing clients: who have applications planned or pending for development orders or approvals or other land use review of a quasi-legislative nature; who have routine administrative matters; who are seeking permits from Palm Beach County; who have commenced real property foreclosure actions in which Palm Beach County has been named as a defendant having an obviously subordinate interest in the property; who have applications before the Palm Beach County Value Adjustment Board; and in similar non-adverse matters. To undertake or continue all such undertakings to represent such clients, the lawyer shall obtain a waiver as provided herein.

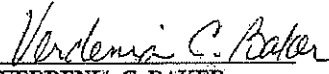
Any lawyer requesting a waiver under Rule 4-1.7 shall identify the prospective client, business association, interest or circumstance, the nature of the work that the attorney may undertake, explain

in writing why he believes the concurrent representation will not violate Rule 4-1.7, and furnish a copy of the written consent of such client. If the County Attorney and County Administrator agree that a waiver as to a particular conflict of interest is in the best interest of Palm Beach County, the County Attorney may consent to such waiver on behalf of the Board of County Commissioners; otherwise, the County Attorney may present such request to the Board of County Commissioners for its consideration.

Palm Beach County retains absolute discretion to object to any concurrent representation which results or has the potential to result in a conflict of interest.

The provisions of this PPM are to be read in conformity with Rule 4-1.7, Rules Regulating the Florida Bar, and the comments thereto.

"Lawyer" as used herein includes the lawyer's law firm, partners and associates.

  
VERDENIA C. BAKER  
COUNTY ADMINISTRATOR

Supersession History:

1. PPM #CW-O-052, issued October 5, 1993
2. PPM #CW-O-052, reviewed and current July 12, 2011