

Palm Beach County Board of County Commissioners



NOTICE OF FUNDING OPPORTUNITY (NOFO)  
INFORMATION GUIDANCE

U.S. Department of Housing and Urban Development  
**CARES ACT EMERGENCY SOLUTIONS GRANT  
EMERGENCY SOLUTIONS GRANT (ESG) PROGRAM  
HOMELESS PREVENTION**

FY 2020 (*June 2, 2020 through September 30, 2022*)

**Release Date:** Friday, May 8, 2020

**Application Due Date:** Friday, May 15, 2020 by 12:00 p.m. (Noon)

Community Services Department (CSD)  
Division of Human and Veteran Services (DHVS)  
Wendy Tippett, Director  
810 Datura Street, Suite 350  
West Palm Beach, Florida 33401

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# CARES Act Emergency Solutions Grant (ESG) Homeless Prevention

## Notice of Funding Availability

Palm Beach County Department of Housing and Economic Sustainability (HES) receives Emergency Solutions Grant (ESG) funds from the U.S. Department of Housing and Urban Development (HUD) annually.

On April 2, 2020, HES received notice that HUD has allocated to Palm Beach County additional funding in special ESG Program funds to be used to prevent, prepare for, and respond to the coronavirus pandemic (COVID-19) among individuals and families who are homeless or receiving homeless assistance; and to support additional homeless assistance and homelessness prevention activities to mitigate the impacts of COVID-19.

These special ESG-CV funds are authorized by the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), Public Law 116-136.

Palm Beach County Community Services Department (CSD), Division of Human and Veteran Services (DHVS) administers these funds.

**Eligible Agencies that meet the requirements of this Notice of Funding Availability are invited to submit application packages to CSD that meet the requirements of this Notice.**

Eligible Agency Applicants for special ESG-CV funds must complete and submit an application package as defined below to DHVS NOFO submission website by **12:00 pm (Noon), Friday, May 15, 2020**. Application packages must be submitted to:

<https://pbcc.samis.io/go/nofo/>

**No application will be accepted after this deadline.**

**Applications must be for a minimum of \$50,000. Administrative and staff costs are not available for this funding. All funding must be expended on direct services resulting in a benefit to clients with no less than 80% being expended on housing costs and no more than 20% being expended on utilities costs.**

**Rapid Re-Housing: Available funding amount is \$500,000**

Housing relocation and stabilization services and/or short-and/or medium-term rental assistance as necessary to help individuals or families living **in shelters or in places not meant for human habitation** move as quickly as possible into permanent housing and achieve stability in that housing specified in 24 CFR 576.104.

**Homelessness Prevention: Available funding amount is \$500,000**

Housing relocation and stabilization services and short-and/or medium-term rental assistance as necessary **to prevent the individual or family from moving to an emergency shelter**, a place not meant for human habitation, or another place specified in 24 (CFR) 576.103.

The costs of homelessness prevention are only eligible to the extent that the assistance is necessary to help the program participant regain stability in their current housing or move into other permanent housing and achieve stability in that housing.

**Eligible:**

**1. Short Term Rental Assistance**

- Up to 3 months

**2. Medium Term Rental Assistance**

- 4 to 24 months
- One-time payment up to 6 months, including any late fees on those arrears
- Not to exceed 24 months; including payment for last month rent

**3. Rent application fees**

- Fee that is charged by the owner to all applicants

**4. Security deposit**

- Equal to no more than 2 months' rent

**5. Last months' rent**

**6. Utility deposit**

**7. Utility payment**

- Up to 24 months of utility payments per participant, per service (i.e., gas, electric, water/sewage), including up to 6 months of arrearages, per service.

**These funds are for COVID-19 related services. Clients requesting assistance will have suffered financial hardship due to COVID-19 and there must be a demonstrated need due to COVID-19. Funds are to be used for rapid re-housing of the homeless/living in shelters to mitigate the risk of COVID-19 infection, to prevent infection/spread of COVID-19, and to provide housing opportunities.**

**[https://www.hud.gov/program\\_offices/comm\\_planning/homeless\\_esg\\_covid-19](https://www.hud.gov/program_offices/comm_planning/homeless_esg_covid-19)**

**Funds Cannot Be Used with Other Subsidies**

*No rental assistance may be provided to a household receiving rental assistance from another public source for the same time period (unless rents are 6 months in arrears)*

**Example: Persons living in public housing units, using housing choice vouchers, or residing in project based assisted units cannot receive monthly assistance under ESG.**

**To be considered for funding, Agency Applicants MUST meet the following criteria:**

- Agency must be a current HMIS user
- Agency must serve clients through the Coordinated Entry System
- Agency must have experience in homeless prevention and/or Rapid Re-housing
- Agency must have the capacity to serve clients immediately
- Agency must have sufficient funds to serve clients (cost reimbursement grant)
- Agency must comply with County’s Standard terms and conditions (attached)
- Agency must be able to execute a contract by June 2, 2020
- Agency must meet May 15, 2020 application deadline

**Timeline:**

<b>Description</b>	<b>Due Date</b>
Release of NOFO	5/8/20
Applications due to CSD	5/15/20
Review of Applications	5/19/20
Funding Decision	5/22/20
Agencies Receive Final Contracts	5/27/20
Executed Contracts Returned to CSD	6/2/20
Effective Date of Contract	6/2/20
Term of Contract	6/2/20 – 9/30/22

**Application Packages Must Contain:**

1. Agency/Organization Name:
  - Address
  - Phone
  - Primary Contact
  - Email
2. Proposed Activity/Project Title: Brief Summary: **(limit 200 characters)**
  - Population to be served
  - Location
3. Agency must be an existing user of the Homeless Management Information System (HMIS). Please describe your agency’s most recent program entry (s). **(limit 200 characters)**
4. Agency must participant in the Coordinated Entry System. Please describe how your agency will participate in the Coordinated Entry System. **(limit 200 characters)**
5. Agency is a certified member of Non-profit first (within past 12 months) \_\_\_\_Yes \_\_\_\_No.

If yes, provide agency certification. If no, please provide the following information.

- Financial audit
- Nonprofit status

6. Budget

- Total Amount requested (minimum of \$50,000)
- Total Number to be served

**\*Please note funding Allocation may increase, case management dollars may become available under different funding source and/or NOFO applicants may be selected for funding recommendations if other funding sources become available.**

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## ESG Sub-Recipient Homeless and Housing Alliance Certification Form

Background: The Palm Beach County Continuum of Care (CoC), Homeless and Housing Alliance (HHA), and the Division of Human and Veteran Services (DHVS), who serves as the COLLABORATIVE APPLICANT, is charged by the U.S. Department of Housing and Urban Development (HUD) to operate and administer CoC activities and to monitor recipients' performance. To further CoC goals and to clarify expectations, HHA is describing ESG grant sub-recipient responsibilities in this document that shall be signed by an authorized representative of the grant recipient agency.

ESG grant sub-recipient is responsible for adhering to all requirements and obligations outlined by HUD. In the event that grant recipient responsibilities change, revisions will be made to this certification and will require a new signature.

Before applying for ESG funding, it is imperative that all project applicants read the Emergency Solutions (ESG) Grants Program Interim Regulations 24 CFR Part 91 and 576 as it provides the requirements for implementation and administration of the ESG Program.

Agency:	
Contact Person:	
Chosen HHA Committee(s):	

I have read and understand the expectations set forth in Attachment A of this certification.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

## Attachment A

### HOMELESS & HOUSING ALLIANCE (HHA) INFORMATION

#### Committee Activities

- All sub-recipients must participate in at least 60% of general HHA meetings and 70% of at least one of the HHA Sub-Committee meetings in a 12-month period
- All sub-recipients must participate in at least one Sub-Committee
- All sub-recipients must present their ESG application(s) to the Non-Conflict Grant Review Committee for local review
- All sub-recipients must participate in the local coordinated assessment process, as approved by the HHA
- Sub-recipients are expected to support one (1) Committee(s) covered by grant activities as they achieve the following standards:
  - Meet minimum standards
    - HHA meetings & Sub-Committee Meetings
    - Participate in coordinated assessment
    - Participate in PIT/HIC
    - HMIS Entry
    - Follow Program Approved Standards (Coordinated Entry, ES, TH, PSH, RRH, Housing First, Housing-Focused Case Management)

#### HMIS Participation and Coverage

ESG grant sub-recipients must collect the following information on the persons served and services provided during the grant period and enter this information into PBC Homeless Management Information System (HMIS). Domestic violence service providers are prohibited from participation in HMIS but must demonstrate that they have a database comparable to an HMIS and are able to provide statistical information that does not compromise client privacy from that database upon request.

#### Universal Data Elements

Name  
Social Security Number  
Date of Birth  
Race  
Ethnicity  
Gender  
Veteran Status  
Disabling Condition  
Residence Prior to Project Entry  
Project Entry Date  
Project Exit Date  
Destination at Project Exit  
Personal ID  
Household ID  
Relationship to the Head of Household  
Client Location  
Length of Time on Street or in Emerg. Shelter

#### Program Specific Data Elements

Housing Status  
Income & Sources of Income  
Non-Cash Benefits  
Health Insurance  
Physical Disability  
Developmental Disability  
Chronic Health Condition  
HIV/AIDS  
Mental Health Problem  
Substance Abuse  
Domestic Violence  
Residential Move-In Date (Rapid Rehousing)  
Services Provided (Rapid Rehousing)  
Financial Assistance Provided (Rapid Rehousing)



## **Grant Performance & Reports**

- All sub-recipients must submit monthly ESG data to the DHVS.
- In the event that a sub-recipient can no longer administer their funds, the sub-recipient will consult the DHVS.

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**PALM BEACH COUNTY COMMUNITY SERVICES DEPARTMENT**  
**STANDARD TERMS AND CONDITIONS FOR FEDERALLY FUNDED**  
**AGREEMENTS**

\*\*The County may add or modify terms and conditions at time of Agreement at the sole discretion of the County. \*\*

**SERVICES**

The AGENCY agrees to provide services to residents of Palm Beach County as set forth in the Scope of Work and Services in the Agreement. The AGENCY also agrees to provide deliverables, including reports, as specified under 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 (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.

**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 Agreement; (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 Agreement; (3) the federal award or funding document for the Agreement; (4) the SuperCircular, inclusive of 2 C.F.R. 200.317 – 200.326; (5) Palm Beach County Code 2-51 – 2-58; (6) the provisions of the Agreement, including any Exhibits; (7) Sub-Recipient's quote or proposal; and (8) all other documents, if any, cited herein or incorporated herein by reference.

**AVAILABILITY OF FUNDS**

The obligations of the COUNTY under the Agreement 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 United States Department of Housing and Urban Development Emergency Solutions Grant (ESG).

## **TRUTH-IN-NEGOTIATION CERTIFICATE**

Signature of the Agreement by the AGENCY shall also act as the execution of a truth-in-negotiation certificate certifying that the wage rates, over-head charges, and other costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of the Agreement and no higher than those charged the AGENCY's most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article within three (3) years following final payment.

## **AMENDMENTS TO FUNDING LEVELS**

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

Any increase or decrease of funding within the designated Agreement amount may be approved in writing by the DEPARTMENT Director, at his discretion, up to ten percent (10%) on a cumulative basis of the Agreement amount during the Agreement term. Such requests for changes must be made in writing by the AGENCY to the DEPARTMENT Director. Budget changes in excess of ten percent (10%) must be approved by the Board of County Commissioners. In the event that grantor reduces the grant amount to the COUNTY, the COUNTY will notify the AGENCY in writing of the funding reduction and the number of beneficiaries shall be reduced commensurate with the revised funding level.

## **INSURANCE**

Prior to execution of the Agreement by the COUNTY, the AGENCY must obtain all insurance required under this article and have such insurance approved by the COUNTY's Risk Management Department.

AGENCY shall, at its sole expense, agree to maintain in full force and effect at all times during the life of this Agreement, insurance coverages and limits (including endorsements), as described herein. AGENCY shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. 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 Agreement.

**Commercial General Liability** AGENCY 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. AGENCY shall provide this coverage on a primary basis.

**Business Automobile Liability** AGENCY shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-owned and hired automobiles. In the event AGENCY does not own any automobiles, the Business Auto Liability requirement shall be amended allowing AGENCY to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. AGENCY shall provide this coverage on a primary basis.

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

**Professional Liability** AGENCY shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. 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 shall maintain a Retroactive Date prior to or equal to the effective date of this Agreement. 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. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of this Agreement, AGENCY shall purchase a SERP with a minimum reporting period not less than 3 years. AGENCY shall provide this coverage on a primary basis.

**Additional Insured** AGENCY shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents." AGENCY shall provide the Additional Insured endorsements coverage on a primary basis.

**Waiver of Subrogation** AGENCY 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 contract to waive subrogation without an endorsement to the policy, then AGENCY shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent.

This Waiver of Subrogation requirement shall not apply to any policy, which specifically prohibits such an endorsement, or which voids coverage should AGENCY enter into such a contract on a pre-loss basis.

**Certificate(s) of Insurance** No later than the execution of the Agreement, AGENCY shall deliver to the COUNTY's representative as identified in Article 24, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by this Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty (30) day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Palm Beach County Board of Commissioners  
c/o Community Services Department  
810 West Datura Street  
West Palm Beach, FL 33401  
ATTN: Contract Manager

**Umbrella or Excess Liability** If necessary, AGENCY may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer's Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest "Each Occurrence" limit for either Commercial General Liability, Business Auto Liability, or Employer's Liability. The COUNTY shall be specifically endorsed as an "Additional Insured" on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a "Follow-Form" basis.

**Right to Review** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of this Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

## **INDEMNIFICATION**

To the extent permitted by law, 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 Agreement 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 the Agreement. The AGENCY also agrees that funds made available pursuant to this Agreement shall not be used by the AGENCY for the purpose of initiating or pursuing litigation against the COUNTY.

### **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 the Agreement. Except as above, neither the COUNTY nor the AGENCY shall assign, sublet, convey or transfer its interest in the Agreement without the prior written consent of the other.

### **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 further represents that it has, or will secure at its own expenses, all necessary personnel required to perform the services under the Agreement, 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.

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.

## **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 herein under shall be performed by the AGENCY or under its supervision, and all personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services.

The AGENCY further represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under the Agreement, 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 Sub-contractors), while on COUNTY premises, will comply with all COUNTY requirements governing conduct, safety and security.

## **SUB-CONTRACTING**

The COUNTY reserves the right to accept the use of a sub-contractor, or to reject the selection of a particular sub-contractor, and to inspect all facilities of any sub-contractors in order to make a determination as to the capability of the sub-contractor to perform properly under this Agreement.

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

## **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 Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

As a condition of entering into the Agreement, the AGENCY represents and warrants that it will comply with the COUNTY's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the AGENCY shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of sub-contractors, 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 sub-contractors, vendors and suppliers to participate in all of its public sector and private sector sub-contracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the COUNTY's relevant marketplace in Palm Beach County. The AGENCY understands and agrees that a material violation of this clause shall be considered a material breach of the Agreement and may result in termination of the Agreement, disqualification or debarment of the company from participating in COUNTY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. AGENCY shall include this language in its sub-contracts.

## **REMEDIES**

The Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a 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 the Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employees of the COUNTY and/or AGENCY.



**CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:**

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.

Affirmative steps must include:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- 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;
- Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- 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.

**HIRING OF MECHANICS OR LABORERS**

For those solicitations and agreements including the employment of mechanics or laborers, the Agreement 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.

**AGENCY'S PROGRAMMATIC REQUIREMENTS**

The AGENCY agrees to specific programmatic requirements, including but not limited to, the following:

AGENCY shall maintain separate financial records for Agreement 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 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 the Agreement on accounting for all funds expended hereunder no later than 30 days from the Agreement end date.

The AGENCY shall submit quarterly the Cash Flow Commitment Statement along with the following financial statements:

- Statement of Cashflows
- Statement of Activities
- Statement of Financial Position

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 agreement shall be executed, and payment will be made by reimbursement of documented expenses.

AGENCY shall promptly reimburse the COUNTY for any funds which are misused, misspent or unspent are for any reason deemed to have been spent on ineligible expenses.

AGENCY shall maintain records in accordance with the Public Records Law, Chapter 119, F.S.

AGENCY shall ensure that no private or confidential data collected, maintained or used during the course of the Agreement period shall be disseminated except as authorized by statute during the Agreement period or thereafter.

AGENCY shall allow COUNTY through the DEPARTMENT to both fiscally and programmatically monitor AGENCY to assure that its fiscal and programmatic goals and conduct as outlined in the Scope of Work are adhered to. By the tenth of each month, documentation of all monthly expenditures must be submitted to the DEPARTMENT for programmatic desk audit purposes only. All contracted programs/services will be reviewed at least yearly and possibly twice-yearly. Outcomes will be reviewed on a monthly basis and reported in accordance with the Agreement. The DEPARTMENT staff will utilize and review other funder's licensing or accreditation monitoring results. Services will be monitored against administrative and programmatic standards designed to measure program efficiency and effectiveness. The AGENCY shall maintain business and accounting records detailing the performance of the Agreement. Authorized representatives or agents of the COUNTY and/or the DEPARTMENT shall have access to records upon reasonable notice for purposes of review, analysis, inspection and audit.

Agencies receiving COUNTY funds to serve homeless agree to be an approved user in the community's Client Management Information System and to execute the necessary Partner and User Contracts and shall fully comply with the terms and conditions as set forth in these documents, unless otherwise directed by the DEPARTMENT.

AGENCY agrees to not use or disclose protected health information, defined as individually identifiable health information other than permitted or required by the Agreement or as required by law.

**Disclosure of Incidents:**

AGENCY shall inform DEPARTMENT by telephone of all unusual incidents that involve clients within 4 - 8 hours of the occurrence of the incidents, and follow up with an Incident Notification Form within twenty-four (24) hours. This includes incidents occurring in or out of the facilities or on approved trips away from the facility. An unusual incident is defined as any alleged, suspected, or actual occurrence of an incident that adversely affects the health and safety of the Clients. All of the incidents require that immediate action is taken to protect Clients from further harm, that an investigation is conducted to determine the cause of the incident and contributing factors, and that a prevention plan is developed to reduce the likelihood of further occurrences. Examples include but are not limited to physical, verbal or sexual abuse.

For Clients who are children or adolescent, the AGENCY shall inform DEPARTMENT by telephone of all unusual incidents that involved any Clients within 2-4 hours of the occurrence of the incidents and follow up with an Incident Notification Form within twenty-four (24) hours. This includes incidents occurring in or out of the facilities or on approved trips away from the facility. A written report must follow within 24 hours of the incidents. An unusual incident is defined as any alleged, suspected, or actual occurrence of an incident that adversely affects the health and safety of the Clients. All of the incidents require that immediate action is taken to protect Clients from further harm, that an investigation is conducted to determine the cause of the incident and contributing factors, and that a prevention plan is developed to reduce the likelihood of further occurrences. Examples include but are not limited to physical, verbal or sexual abuse.

AGENCY that provide services or will be around children, the elderly and other vulnerable adult populations, will have and comply with policy that requires them to conduct a Level 1 or Level 2 Criminal Background Check every five (5) years for applicants and volunteers being considered or currently in positions.

AGENCY shall have an approved Succession Plan indicating how they plan to communicate to DEPARTMENT if Key Personnel of Senior Management plans on leaving the AGENCY. Provide an action plan and timeline for replacement.

AGENCY shall notify DEPARTMENT through the Incident Notification Process and follow up with an Incident Notification Form within fourteen (14) business days of the following:

- Resignation/Termination of CEO, President and/or CFO.
- Resignation/Termination of Key funded staff.
- DEPARTMENT Funded Staff vacancy position over 90 days.
- Loss of funding from another Funder that could impact service delivery.
- New credit lines established with creditors, or any other new debt incurred (including loans taken out on mortgages)
- Inability to have three (3) month's cash flow on hand
- Temporary interruption of services delivery due to emergency, natural or unnatural disaster.
- Other incidents that may occur unexpectedly and is not covered above.

AGENCY shall provide a roster of Board of Directors, with titles, addresses, phone numbers and a copy of the Board By-Laws.

AGENCY shall provide a copy of their revised budget if there are programmatic changes. This needs to be reviewed, discussed and approved by the DEPARTMENT Program and Fiscal Staff.

### **AGENCY Engagement**

The DEPARTMENT and COUNTY rely on all agencies to help ensure that our community recognizes the importance of the work we do together. Palm Beach County residents should know about the specific work covered in the Agreement, and know about the DEPARTMENT: who it is, its role in funding, how it works, and what they – the taxpayers – are funding.

The names and logos of the AGENCY or program funded under the Agreement and the DEPARTMENT and COUNTY are to be displayed in all communications, education and outreach materials. The DEPARTMENT is to be identified as the funder, or one of the funders if there are more than one. The two (2) logos approved are below:



#### Specific Activities – Mandatory:

When AGENCY describes the DEPARTMENT in written material (including new releases), use the language provided below and available on the AGENCY's website <http://discover.pbcgov.org/communityservices/Pages/default.aspx>

To promote independence and enhance the quality of life in Palm Beach County by providing effective and essential services to residents in need.

Display the DEPARTMENT and COUNTY logo according to the guidelines at <http://discover.pbcgov.org/communityservices/Pages/Publications.aspx> on any printed promotional material paid for using the DEPARTMENT and COUNTY funds including stationery, brochures, flyers, posters, etc., describing or referring to a program or service funded by the DEPARTMENT and COUNTY.

#### Specific Activities – Recommended:

Identify the DEPARTMENT and COUNTY as a funder in media interviews when possible; and

Notify the DEPARTMENT's staff of any news release or media interview relating to this Agreement or the program funded under this Agreement so the coverage can be promoted using appropriate media channels; and

Place signage/LOGO in AGENCY's main office/lobby and all additional work/service sites visible to the public, identifying the DEPARTMENT and COUNTY as a funder; and

Display the DEPARTMENT and COUNTY logo according to this posted guideline <http://discover.pbcgov.org/communityservices/Pages/Publications.aspx> on AGENCY's website with a hyperlink to the DEPARTMENT and COUNTY website <http://discover.pbcgov.org/communityservices/Pages/default.aspx>; and

Display the DEPARTMENT logo on signs and banners at events open to the public (excluding fund-raising events) promoting funded programs that AGENCY sponsors or participates in.

AGENCY should maintain in their file proof that clients served came through the Coordinated Entry System.

AGENCY shall maintain its status as a member in good standing of the Palm Beach County Homeless and Housing Alliance (HHA). To qualify as a member in good standing of the HHA, AGENCY shall meet the HHA's attendance requirements – 60 percent (%) attendance at the general HHA meetings and 70 percent (%) attendance at the sub-committee meetings, as defined in the HHA Bylaws, Article 3, Section 2, which can be found at [www.hhapbc.org](http://www.hhapbc.org).

AGENCIES that are not current members of HHA must join the HHA and attend the new member orientation with the first 3 months of Agreement and maintain a certificate of their completed training.

AGENCY must enter all programmatic data into the Homeless Management Information System (HMIS).

AGENCIES that are not currently using HMIS must attend HMIS training within one month of Agreement award.

AGENCY programs must comply with HHA program standards, coordinated entry and prioritization process.

AGENCY shall submit annually or on a periodic basis to 211 Palm Beach/Treasure Coast, Inc. information regarding available services and related information about Impact Partner and the funded program(s), as requested by 211 Palm Beach/Treasure Coast, Inc.

Agency must sign a Certification Regarding Lobbying Byrd Anti-Lobbying Amendment and Certification Regarding Debarment and Suspension.

AGENCY agrees to comply with all provisions of 2 CFR 200 and 24 CFR 576.

Failure to provide this information in a timely fashion and in the format required will constitute a material breach of the Agreement and may result in termination of the Agreement.

### **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 the Agreement, 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 the Agreement on accounting for all funds expended hereunder no later than 30 days from the Agreement 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, F.S., and Chapter 10.550 and 10.600, Rules of the

Auditor General, and, to the extent applicable, the Single Audit Act of 1984, 31 U.S.C. ss. 7501-7507, OMB Circulars A-128 or A-133 for the purposes of auditing and monitoring the funds awarded under this Agreement.

- 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, contracts and grant revenue by sponsoring agency and contract/ grant number.
- c. The complete financial audit report, including all items specified herein, shall be sent directly to:

Sonya McNair, Program Manager  
Palm Beach County Community Services Department  
810 Datura Street  
West Palm Beach, Florida 33401

Electronic submission via email is acceptable. Please submit audit reports to the Program 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, F.S. The IPA shall state that the audit complied with the applicable provisions noted above.
- e. The audit is due within (9) months after the end of the AGENCY's fiscal year.
- f. The AGENCY will provide a final close out report and Financial Reconciliation Statement as set forth in the Agreement, accounting for all funds expended hereunder no later than 30 days from the Grant Year end date.
- g. A copy of all grant audits and monitoring reports by other funding entities are required to be provided to the COUNTY.
- h. AGENCY shall establish policies and procedures and provide a statement, noting 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.

## **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 the Agreement.

## **DRUG-FREE WORKPLACE**

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

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.

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.

Give each employee engaged in providing the services that are under Agreement a copy of the statement specified in Item Number 1 above.

In the statement specified in Item Number 1 above, notify the employees that, as a condition of working on the Agreement 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, F.S., 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.

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.

Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, F.S.

### **AMERICANS WITH DISABILITIES (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.

### **INDEPENDENT CONTRACTOR RELATIONSHIP**

The AGENCY is, and shall be, in the performance of all work services and activities under the Agreement, an Independent Contractor, and not an employee, agent, or servant of the COUNTY. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times, and in all places, be subject to the AGENCY's sole direction, supervision, and control. The AGENCY shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the AGENCY's relationship and the relationship of its employees to the COUNTY shall be that of an Independent Contractor and not as employees or agents of the COUNTY.

The AGENCY does not have the power or authority to bind the COUNTY in any promise, contract or representation other than specifically provided for in the Agreement.

### **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 the Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the AGENCY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement.

## **PUBLIC ENTITY CRIMES**

As provided in F.S. 287.132-133, by entering into the Agreement or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, sub-contractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by F.S. 287.133(3)(a).

## **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 sub-contractors 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 Agreement.

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

## **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 Agreement.

## **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 the Agreement.

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 Agreement 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 Agreement, whether or not in privity of Agreement with the COUNTY or the AGENCY, and wherever located shall be the property of the COUNTY.

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

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

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

## **TERMINATION**

The Agreement 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 Agreement 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 Agreement, the AGENCY shall be paid for services rendered to the COUNTY's satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the AGENCY shall:

- Stop work on the date and to the extent specified.
- Terminate and settle all orders and sub-contracts relating to the performance of the terminated work.
- Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.

- Continue and complete all parts of the work that have not been terminated.

In the event the grant to the COUNTY under the United States Department of Housing and Urban Development Emergency Solutions Grant (ESG) is suspended, the COUNTY may terminate the Agreement in its sole discretion. In the event the ESG grant is terminated, the Agreement shall be terminated effective on the date the United States Department of Housing and Urban Development Emergency Solutions Grant (ESG) specifies.

### **SEVERABILITY**

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

### **MODIFICATIONS OF WORK**

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

If the COUNTY so instructs in writing, the AGENCY shall suspend work on that portion of the Scope affected by a contemplated change, pending the COUNTY's decision to proceed with the change.

If the COUNTY elects to make the change, the COUNTY shall initiate a Contract Amendment and the AGENCY shall not commence work on any such change until such written amendment is signed by the AGENCY and approved and executed on behalf of Palm Beach County.

### **NOTICES**

All notices required in the Agreement shall be sent by Certified Mail, Return Receipt Requested, hand delivery or other delivery service requiring signed acceptance, and if sent to the COUNTY shall be mailed to:

Sonya, McNair, Program Manager

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

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

<<NAME & TITLE OF AGENCY CONTACT>>

<<AGENCY>>

<<ADDRESS>>

<<CITY, STATE ZIP>>

### **STANDARDS OF CONDUCT FOR EMPLOYEES**

The AGENCY must establish safeguards to prevent employees, consultants, 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 2 CFR 200.

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.

## **SCRUTINIZED COMPANIES**

As provided in F.S. 287.135, by entering into the Agreement or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, sub-contractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to F.S. 215.4725. Pursuant to F.S. 287.135(3)(b), if AGENCY is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this Agreement may be terminated at the option of the COUNTY.

**When contract value is greater than \$1 million:** As provided in F.S. 287.135, by entering into this Agreement or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, sub-agencies who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to F.S. 215.473 or is engaged in business operations in Cuba or Syria.

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

## **PUBLIC RECORDS**

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

Keep and maintain public records required by the COUNTY to perform services as provided under the Agreement.

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.

Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and

following completion of the Agreement, if the AGENCY does not transfer the records to the public agency.

Upon completion of the Agreement the AGENCY shall transfer, at no cost to the COUNTY, all public records in possession of the AGENCY unless notified by COUNTY's representative/liaison, on behalf of the COUNTY's Custodian of Public Records, to keep and maintain public records required by the COUNTY to perform the service. If the AGENCY transfers all public records to the COUNTY upon completion of the Agreement, the AGENCY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the AGENCY keeps and maintains public records upon completion of the Agreement, the AGENCY shall meet all applicable requirements for retaining public records. All records stored electronically by the AGENCY must be provided to COUNTY, upon request of the COUNTY's Custodian of Public Records, in a format that is compatible with the information technology systems of COUNTY, at no cost to COUNTY.

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

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

**CRIMINAL HISTORY RECORDS CHECK:**

The AGENCY, AGENCY's employees, sub-contractors of AGENCY and employees of sub-contractors 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 Resolutions R-201-1470 and R3015-0572, as amended. The AGENCY is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the AGENCY acknowledges that its Agreement 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.

The Agreement may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and 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 sub-contractors' employees upon conclusion of the Agreement and return them to the COUNTY. If the AGENCY or its sub-contractor(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 sub-contractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.**

### **ENTIRETY OF CONTRACTUAL AGREEMENT**

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 the Agreement, the Agreement shall control.

The COUNTY and the AGENCY both further agree that the Agreement will set forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein.

None of the provisions, terms and conditions contained in the Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

### **PALM BEACH COUNTY OFFICE OF THE 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 Agreement 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.



## **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

## **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.

## **FEDERAL AND STATE TAX**

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

The AGENCY shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes and benefits with respect to this Agreement.

## **FACILITIES/OFFICE SPACE**

The COUNTY shall grant the AGENCY the right, revocable license and privilege of accessing and using room(s) (the Premises) 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 Agreement. Additional provisions on the license, use and restrictions regarding the Premises will be detailed in the Agreement.

### **DEBARMENT AND SUSPENSION**

A completed "Certification Regarding Debarment and Suspension" is required at time of Agreement 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 Agreement award.

The Agreement 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 while the Agreement is valid and throughout the period of any Agreement that may arise from this offer, 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.

### **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](http://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.

### **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.

### **SCIENTIFIC RESEARCH AND DEVELOPMENT AND COPYRIGHT AND PATENT RIGHTS**

Those solicitations or Agreements 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 which arises or is developed in the course of or under the Agreement. The COUNTY shall hold the copyright to works produced or purchased under the Agreement. 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.

### **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).

## **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.

## **PROGRAM FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS**

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

## **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 sub-contractor under the Agreement. (31 U.S.C. 3729).

## **COUNTERPARTS**

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