



Regular City Commission Meeting Agenda

150 NE 2nd Avenue | Deerfield Beach, FL, 33441 | 954-480-4200

Mayor Bill Ganz

Vice Mayor Ben Preston

District 1 Commissioner Michael Hudak

District 3 Commissioner Bernie Parness

District 4 Commissioner Todd Drosky

**Tuesday
February 15, 2022
7:00 PM**

CALL TO ORDER & ROLL CALL

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

APPROVAL OF CITY COMMISSION MINUTES

Regular City Commission Meeting Minutes

Attachment: February 1, 2022

ACKNOWLEDGEMENT OF CITY BOARD MINUTES

Hillsboro Inlet District Meeting Minutes

Attachment: November 15, 2021

APPROVAL OF THE AGENDA

February 15, 2022

ZOOM MEETING

Join Zoom Meeting by clicking the below link:

<https://deerfield-beach.zoom.us/j/85946774821?pwd=N25iLzBIY3hHRXljWlpXY0F1b1FCZz09>

Join Zoom Meeting via telephone by dialing:

Call-in Number: (301) 715-8592

Meeting ID: 859 4677 4821#

Participant ID: #

Passcode: 261436#

For complete instructions on joining and/or participating during Public Comment, please click the following link or attend in person in the City Commission Chambers adhering to social distancing protocols, temperature checks and face-covering recommendations:

Attachment: Zoom Instructions

PUBLIC HEARING

- 1. P.H. 2022-036: Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, supporting the expansion of both Deerfield Beach Express I and II Community Shuttles for Saturday Services; approving the First Amendment to the Interlocal Agreement with Broward County for Community Shuttle Services to reflect a funding decrease, reflect an increase in service hours and days, and amend the vehicle list; authorizing execution of the First Amendment; providing for implementation and an effective date.**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Parks & Recreation

Attachment: Express I and II Community Shuttles

PUBLIC HEARINGS – SECOND READING

- 2. P.H. 2022-035: ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; APPROVING SUPPLEMENTAL APPROPRIATIONS AND BUDGET TRANSFERS TO VARIOUS CITY FUNDS, AND REDUCING APPROPRIATIONS TO THE DISASTER RECOVERY INITIATIVE GRANT FUND BY \$108,000 AND THE 2000 BOND FUND BY \$91,160, AS SET FORTH IN THE ATTACHED EXHIBIT "A"; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

Suggested Action: Commission to vote on Ordinance

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Financial Services

Attachment: Budget Amendment

PUBLIC COMMENT

Persons addressing the Commission shall state his/her name and address and may speak for three (3) minutes unless extended for one (1) additional minute by the Mayor. All remarks made by the public at a Commission meeting on an agenda item shall be addressed to the Commission as a body and limited to the subject matter before the Commission at that particular time. No comments shall be made related to the personal life or personal qualities of any person and no language which would offend persons of ordinary sensibilities shall be permitted. The public shall be given an opportunity to speak on any substantive agenda item, subject to the aforementioned restrictions, prior to a vote on the matter by the City Commission. The Commission shall determine the appropriate time, prior to the vote, for the public to speak. For consent agenda items, the public shall be given an opportunity to speak prior to the approval of the consent agenda. The Commission may, by majority vote, determine that public input on an agenda item be tabled to a future meeting so long as the vote on the agenda item take place at the future meeting and that the public input take place prior to the Commission making any decision.

CONSENT - BOARD APPOINTMENT

- 3. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, appointing Annette Mitchell as a regular commissioner of the Deerfield Beach Housing Authority to fill an unexpired term; and providing an effective date.**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Office of the City Clerk

Attachment: Housing Authority Board Appointment

CONSENT - AGREEMENTS & EXPENDITURE REQUESTS

- 4. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the settlement of all claims against the City in the litigation styled *David Kinberg vs. City of Deerfield Beach*; authorizing execution of documents**

necessary to effectuate the settlement; providing for an effective date. (*Funds from Account #606-0900-519-37-71 - Risk Management/General Liability*)

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Office of the City Attorney

Attachment: Kinberg Settlement Agreement

- 5. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the Settlement Agreement and Release with Endo Health Solutions, Inc. and Endo Pharmaceuticals, Inc., related to the Opioids Litigation; authorizing execution of the settlement agreement; providing for implementation and an effective date.**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Office of the City Attorney

Attachment: Settlement Agreement and Release

- 6. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the submission of a request for inclusion to the Clean Water State Revolving Fund Loan Program for the construction of a new reclaimed water main in conjunction with the SW 10th Street Connector Improvements Project; providing for an effective date. (*Funds from Account #413-5000-536-60-31 - Utilities - Improvements Other than Buildings*)**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Environmental Services

Attachment: Clean Water State Revolving Fund Loan Program

- 7. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an Interlocal Agreement with Broward County for the Surtax-Funded Municipal Transportation Project: Rehabilitation and Repair of the SE 13th Avenue Bridge over Tern Waterway (BC-DFBEACH FY2020-00001); providing for execution and an effective date. (*Funds from Account #108-5050-541-60-31 - Improvements Other than***

Buildings)

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Environmental Services

Attachment: Surtax-Funded Municipal Transportation Project

8. **Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an agreement with Kimley-Horn and Associates, Inc. for the design of the Pioneer Grove Infrastructure Improvements and Complete Streets Project; authorizing the City Manager to execute the Agreement with Kimley-Horn and Associates, Inc., in an amount of \$586,265; and providing for an effective date. (*Funds from Account #108-5050-541-60-31 - Improvements Other than Buildings*)**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Environmental Services

Attachment: Pioneer Grove Infrastructure Improvements

9. **Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an agreement with Kimley-Horn and Associates, Inc. for the Design of the FAU Research Park Blvd. (SW 11th Way) Improvements Project; authorizing the City Manager to execute the Agreement with Kimley-Horn and Associates, Inc., in an amount of \$933,968.40; and providing for an effective date. (*Funds from Account #108-5050-541-60-31 - Improvements Other than Buildings*)**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Environmental Services

Attachment: FAU Research Park Blvd. Improvements Project

10. **Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the ranking and award of Request for Proposals #22-02-JW for Residential Environmental Services for Federal and State Funded Housing and Community Service Programs; authorizing execution of agreements with the two top ranked responsive and responsible firms, Gaudet Associates, Inc. and Airquest**

Environmental, Inc., for two year terms with one additional two-year renewal term; providing for implementation and an effective date.

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Community Services

Attachment: Residential Environmental Services

- 11. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the ranking and award of Request for Proposals #22-03-JW for Residential Inspection and Cost Estimating Services for Federal and State Funded Housing and Community Service Programs; authorizing execution of agreements with the three ranked responsive and responsible firms, TSC Associates, Inc., Housing and Assistive Technology, Inc., and Gold Tree Development Group, LLC, for two year terms with one additional two-year renewal term; providing for implementation and an effective date.**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Community Services

Attachment: Residential Inspection and Cost Estimating Services

- 12. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving Contract #JCV21-06-2022 with the Areawide Council on Aging of Broward County, Inc. for the Telephone Reassurance Program in an amount not to exceed \$11,762.25; authorizing execution of the contract; providing for implementation and an effective date. (*Fiscal Impact: Increase in Funding*)**

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Community Services

Attachment: Telephone Reassurance Program

- 13. Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving Congregate Meal Site Agreements with Human Services Network, Inc. dba Meals on Wheels South Florida for the Distribution of meals to seniors at the Center**

for Active Aging/Senior Center and the Adult Day Care Center; authorizing the City Manager to execute the agreements; providing for implementation and an effective date.

Suggested Action: Commission to vote on Resolution

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Department of Community Services

Attachment: Meals on Wheels South Florida

DEPARTMENTAL BUSINESS

14. ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF DEERFIELD BEACH AND THE FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY; AUTHORIZING AN EXTENSION OF TIME FOR THE DEVELOPMENT OF FOUR ACRES OF THE FLORIDA ATLANTIC RESEARCH & DEVELOPMENT AUTHORITY PROJECT IN THE CITY OF DEERFIELD BEACH; PROVIDING FOR EXECUTION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Suggested Action: Commission to vote on Ordinance and set public hearing for February 15, 2022

Voting Requirement: Adoption requires a 3/5 vote of the City Commission

Sponsor: Office of the City Attorney

Attachment: FARDA

COMMENTS BY ADMINISTRATION & LEGAL

COMMENTS BY MAYOR & CITY COMMISSION

ADJOURNMENT

FUTURE CITY COMMISSION MEETINGS

Regular City Commission Meeting - Tuesday, March 1, 2022

Any person wishing to appeal any decision made by the City Commission with respect to any matter considered at such meetings or hearings will need a record of the proceedings, and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and the evidence upon which the appeal is made. The above notice is required by State Law (F.S. 286.0105). Anyone desiring a verbatim transcript shall have the responsibility, at his/her own expense, to arrange for the presence of a certified court reporter at the hearing.



Meeting Minutes City Commission

Tuesday, February 1, 2022

7:00 PM

Commission Chambers

CALL TO ORDER AND ROLL CALL

The meeting was called to order on the above date by Mayor Bill Ganz at 7:02 p.m., in the City Commission Chambers, City Hall, Deerfield Beach.

Present: 5 – Commissioner Todd Drosky
Commissioner Michael Hudak
Commissioner Bernie Parness - via Zoom
Vice Mayor Ben Preston - via Zoom
Mayor Bill Ganz

Also Present: 3 – City Manager David Santucci
City Attorney Anthony Soroka
City Clerk Samantha Gillyard

MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Vice Mayor Preston expressed condolences for various individuals who previously worked in the City as well as residents and their impact.

Thereafter, was a moment of silence, followed by the Pledge of Allegiance.

APPROVAL OF CITY COMMISSION MINUTES

Regular City Commission Meeting Minutes - January 4, 2022

MOTION was made by Commissioner Parness, seconded by Commissioner Hudak, to approve the meeting minutes as submitted. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

ACKNOWLEDGEMENT OF CITY BOARD MINUTES

Code Compliance Meeting Minutes - July 28, August 10, August 25, September 7, & September 22, 2021

MOTION was made by Commissioner Hudak, seconded by Commissioner Parness, to acknowledge the board minutes. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Preston, Vice Mayor Parness and Mayor Ganz

Nays: 0

APPROVAL OF CITY COMMISSION AGENDA

February 1, 2022

MOTION was made by Commissioner Hudak, seconded by Commissioner Parness, to approve the agenda as amended. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

AWARDS & RECOGNITION

- 1. Certificates of Appreciation presented to volunteers as well as City, County and MPO staff who worked together to improve N.E. 3rd Avenue to increase road safety for motorists, bicyclists and pedestrians.**

Mayor Ganz provided an overview of the BTactical Program; whereby, temporary changes were made to NE 3rd Avenue to improve road safety. He recognized Commissioner Hudak for his efforts and named various volunteers present who participated in the road painting.

- 2. Proclamation recognizing February 2022 as American Heart Month. (Addendum)**

Mayor Ganz recognized American Heart Month and the importance of raising awareness of a healthy heart and reducing health risks by eating healthy and exercising 30 minutes daily. Additionally, he recognized February 4, 2022 as wearing red day.

Deputy Mayor Jacqueline Guzman, City of Sunrise, thanked the Commission for recognizing American Heart Month and provided background on her medical history which is why she supports this initiative.

QUASI-JUDICIAL PUBLIC HEARING

- 3. P.H. 2022-028: APPLICATION NO. 21-P-231**

Applicant: 7-ELEVEN, INC. REPRESENTED BY ANN DEVEAUX OF KEITH

Proposal: Request for a plat note amendment to the 7-Eleven Hillsboro & 12th Plat, to be restricted to a convenience store with eight (8) fueling positions.

Location: The property is generally described as 7-ELEVEN & 12th 183-433 B PARCEL A, more particularly described in the file, and located at **1200 W Hillsboro Boulevard**.

Anthony Soroka, City Attorney, outlined Item 3 and asked the applicant's representative if she wished to waive the quasi-judicial proceedings which he explained.

Ann DeVeaux, Keith, 301 E. Atlantic Boulevard, Pompano Beach, waived the quasi-judicial proceedings. Thereafter, a brief PowerPoint presentation was given. Ms. DeVeaux outlined the location and explained that the applicant is seeking the refund of a bond; whereby, the site will not be renovated and remains the same.

In response to Mayor Ganz's question, Ms. DeVeaux replied that the applicant decided not to move forward with the improvements and the site will remain status quo.

In response to Mayor Ganz's question, Mr. Soroka replied that the application is procedural in that if it meets all code requirements, the Commission should approve it. He said the County requires payment when you bond and as such, this would allow the applicant to receive the refund from the County.

In response to Mayor Ganz's question, Eric Power, Director of Planning & Development Services, replied that there are no code violations against the site.

QUASI-JUDICIAL PUBLIC HEARING - CONTINUED

Mayor Ganz opened the public hearing; however, there were none to speak and the public hearing was closed.

Commissioner Drosky commented on the disclosure affidavit and outlined various campaign contributions as he is not sure if the amounts disclosed are accurate. Thereafter, he expressed his disappointment that the property would not be improved.

Mayor Ganz also expressed his dissatisfaction due to the improvements made within the site's proximity.

Samantha Gillyard, City Clerk, outlined campaign contributions from Keith; Commissioner Hudak - \$250 on Oct 3, 2018 and Feb 28, 2019; Commissioner Drosky - \$500, January 11, 2021; Commissioner Parness – \$500 – February 1, 2021. She advised that the ordinance only requires disclosure for 4 years; thus, any contributions made before 2018 should not have been listed on the disclosure affidavit.

MOTION was made by Commissioner Hudak, seconded by Vice Mayor Preston, to approve Item 3, adopted Resolution 2022/011. Roll Call:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

PUBLIC HEARINGS - SECOND READING

4. P.H. 2022-029: ORDINANCE 2022/004 - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AMENDING CHAPTER 22 "CEMETERIES" OF THE CITY CODE OF ORDINANCES TO REVISE AND UPDATE THE CEMETERY PROVISIONS; PROVIDING FOR CODIFICATION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

The Ordinance was read by title only.

David Santucci, City Manager, said this ordinance accompanied a resolution at the last meeting to update the fee schedule. The ordinance was a requirement to meet the fees passage. Thereafter, he welcomed any questions by the Commission.

Mayor Ganz opened the public hearing; however, there were none to speak and the public hearing was closed.

Commissioner Parness commented on the compromise at the last meeting regarding the increase of fees.

MOTION was made by Commissioner Parness, seconded by Commissioner Hudak, to approve Item 4, adopted Ordinance 2022/004. Roll Call:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

5. Resolution 2022/012 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, amending the rules and regulations for Deerfield Beach Memorial Cemetery and Pineview Cemetery to limit future cemetery plot sales to residents and the family members of the deceased that are currently buried in the City cemeteries; providing for conflicts, severability, and an effective date. (Departmental Business)

The Resolution was read by title only.

David Santucci, City Manager, explained that the City Commission decided to restrict purchase of plots to residents only; whereas, family members include spouse, children, grandchildren, domestic partner, grandparents, and legal guardians.

PUBLIC HEARINGS - SECOND READING

Mayor Ganz asked what percentage of plot purchases make up for non-residents.

Mr. Santucci replied approximately 20%.

Mayor Ganz opened the public hearing; however, there were none to speak and the public hearing was closed.

MOTION was made by Commissioner Parness, seconded by Vice Mayor Preston, to approve Item 5, adopted Resolution 2022/012. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

PUBLIC COMMENT

Peggy Ross, 103 NE 19th Avenue, Deerfield Beach, said she thought improvements were to be made at the 7-Eleven on the S-curve about 2 years ago as nothing has occurred.

Eric Power, Director of Planning & Development Services, advised that both 7-Elevens are corporately owned; nevertheless, 7-Eleven has stopped making improvements to their locations throughout South Florida over the last couple of years.

CONSENT - BOARD APPOINTMENT

6. Resolution 2022/013 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, appointing Pamela Cantor as an alternate member to the Community Appearance Board; and providing for an effective date.

The Resolution was read by title only.

Commissioner Parness recommended Ms. Cantor due to her experience working with arborists and believes she will bring a different view to the board.

Mayor Ganz opened the public hearing; however, there were none to speak and the public hearing was closed.

MOTION was made by Commissioner Parness, seconded by Vice Mayor Preston, to approve Item 6, adopted Resolution 2022/013. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

CONSENT - AGREEMENTS & EXPENDITURE REQUESTS

After a brief discussion, Commissioner Drosky asked that Item 9 be pulled for discussion.

Mayor Ganz opened the public hearing; however, there were none to speak and the public hearing was closed.

MOTION was made by Commissioner Parness, seconded by Vice Mayor Preston, to approve Items 7, 8 & 10 in concert. Roll Call:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

CONSENT - AGREEMENTS & EXPENDITURE REQUESTS - CONTINUED

7. **Resolution 2022/014 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the Interlocal Agreement with Broward County and other Broward municipalities governing the use of Broward County Regional Opioid Settlement Funds; authorizing execution of the Interlocal Agreement; providing for implementation and an effective date.**
8. **Resolution 2022/015 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an Amendment to Contract #JB8311F-06-2021 with the Areawide Council on Aging of Broward County, Inc. to extend the term for the iN2L Pilot Program; authorizing execution of the Amendment; and providing an effective date. (*Fiscal Impact: Increase in Revenue*)**
9. **Resolution 2022/016 - A Resolution of the City Commission for the City of Deerfield Beach, Florida, approving the Second Amendment to the contract with Sulphuric Acid Trading Company, Inc. for sulfuric acid 93%, to provide for a price increase; authorizing execution of the Amendment; providing for implementation, conflicts, and an effective date. (*Funds from Account #401-5020-533-35-11 - Chemicals (Water Plant)*)**

The Resolution was read by title only.

Commissioner Drosky said he wanted to discuss the item because of the uncontrollable costs such as these; whereby, there will be a future request to increase water rates as they are not meeting expenses. Further, the Solid Waste/Wastewater Fund is subsidizing the water rates. Commissioner Drosky said he did not want this to be a surprise to anyone.

Mayor Ganz said the cost is increasing from \$162.50 per short ton to \$249.11 per short ton.

Commissioner Hudak said the method to treat water may also change to an ion processing solution that is costlier, but is a better way for treatment. The current method is antiquated and not as effective.

Mayor Ganz opened the public hearing; however, there were none to speak and the public hearing was closed.

Commissioner Parness attributed the increased costs due to price gouging.

MOTION was made by Commissioner Hudak, seconded by Commissioner Drosky, to approve Item 9, adopted Resolution 2022/016. Roll Call:

Yeas: 4 - Commissioner Drosky, Commissioner Hudak, Vice Mayor Preston and Mayor Ganz

Nays: 1 - Commissioner Parness

10. **Resolution 2022/017 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving a Work Authorization with Jacobs Engineering, Inc. in an amount not to exceed \$243,421.00 for construction management services related to the West Water Treatment Plant Chlorine Conversion Project; authorizing execution of a Work Authorization; and providing for an effective date. (*Funds from Account #413-5000-536-60-31 - Improvements Other than Buildings*)**

DEPARTMENTAL BUSINESS**11. ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; APPROVING SUPPLEMENTAL APPROPRIATIONS AND BUDGET TRANSFERS TO VARIOUS CITY FUNDS, AND REDUCING APPROPRIATIONS TO THE DISASTER RECOVERY INITIATIVE GRANT FUND BY \$108,000 AND THE 2000 BOND FUND BY \$91,160, AS SET FORTH IN THE ATTACHED EXHIBIT "A"; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.**

The Ordinance was read by title only.

David Santucci, City Manager, advised that the City Commission was provided an individual presentation regarding the purpose of the budget amendment; furthermore, a budget workshop was provided to the public.

Stephanie Tinsley, Chief Financial Officer, provided a PowerPoint presentation on the FY 2022 budget amendment. The purpose is to recognize the carryforwards for goods, services and capital projects that continue into FY 2022, but were obligated in FY 2021. Fiscal year end 2021 reconciliations were also complete; whereby, goods and services already received must be recognized in the amendment by a slight reduction. Finally, there are new emergent needs to be addressed moving forward. Ms. Tinsley advised that for the General Fund, a request of approximately \$737,000 is sought and entails approximately \$127,000 for carryforward for capital outlay improvement projects and architectural and engineering services; along with a transfer to a capital project fund of \$610,000. Thereafter, Ms. Tinsley outlined the carryforwards: vehicle obligated in FY 2021 but received in FY 2022; concession stand roof repairs and a reduction in reconciliations. The primary adjustment is for the south wedding deck repair/replacement [\$450,000].

Continuing, Ms. Tinsley outlined special revenue funds, wherein, there is a legal restriction for a particular use: Road & Bridge Fund entails both the Pioneer Grove and FAU Research Boulevard through surtax funding; other funds, which are related to the Law Enforcement Trust Funds are nuisance abatement assessment, Deerfield Beach PAL, crime prevention, car seat trust, and PAL donation. Lastly, Ms. Tinsley said the last fund is the Disaster Recovery Initiative Grant which reduced the budgeted amount by \$108,000. Additionally, Ms. Tinsley said the bond funds appropriation adjustment is based on bond proceed reconciliations and the goods/services received in 2021 and is being adjusted down by \$91,160. Furthermore, she commented on the 2018 bond fund, whereas, those funds were reconciled for capital improvements in the amount of \$33.1 million, but the total bond proceeds were \$42.1 million. She said \$4.24 million was used to retire 2006 bonds that were refunded. Ms. Tinsley continued explaining what funds are being appropriated, \$5.3 million, less the FY 2022 approved budget of \$22.3 million. In the future, any budget amendments should be much smaller.

In closing, Ms. Tinsley outlined the Enterprise Funds impacted by the amendment. There will be a carryforward in the stormwater fund for two projects, stormwater master plan and stormwater lining at \$229,000 and water & sewer renewal/replacement of \$2.8 million; a transfer of American Rescue Plan (ARP) funding for the West Water Treatment Plan-Chlorine Conversion. Due to Generally Accepted Accounting Principles, it is important to recognize the expenditures within the water and wastewater funds. She advised that ARP funds will be reported into the capital for water and sewer. Thereafter, Ms. Tinsley opened for questions.

Mayor Ganz opened the public hearing.

Peggy Ross, 103 NE 19th Avenue, Deerfield Beach, asked where the south wedding deck is located.

Mayor Ganz replied that it is located behind the Embassy Suites at the furthest southern portion of the beach. Thereafter, he closed the public hearing; however, it was reopened for an additional comment.

DEPARTMENTAL BUSINESS - CONTINUED

Gwyndolen Clarke-Reed, 1430 SW 6th Way, Deerfield Beach, asked if the amount not appropriated in the bond was leftover for another potential project.

Mayor Ganz closed the public hearing.

Mr. Santucci replied that the bond proceeds brought forward in the budget amendment are reserved for intended bond projects. Furthermore, he said it is prudent to hold off on the City Hall renovation project until the Tigner Center and Center for Active Aging have progressed with construction due to his concerns over rising construction costs.

MOTION was made by Commissioner Parness, seconded by Vice Mayor Preston, to approve Item 11 on first reading. Roll Call:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

COMMENTS BY ADMINISTRATION & LEGAL

CITY ATTORNEY - NONE

CITY MANAGER

COVID-19 Protocols - David Santucci, City Manager, advised that the protocols for the City remain unchanged and the case numbers appear to have dwindled. The Omnicron variant took a stronghold on South Florida around the holidays and by December 17th, cases increased, but steadily rose until its peak the week of January 7th. The latest report released by the Department of Health shows cases for the week ending January 21st was about 198,000; nevertheless, he is hopeful that cases will continue to decrease.

Martin Luther King, Jr. Holiday - Mr. Santucci advised that celebration was cancelled due to the number of COVID cases at that time; whereby, the Department of Health reported 430,000 new cases in a week. He explained the importance of keeping everyone safe; whereas, he spoke with Broward Health representatives, who cautioned against holding substantially large outdoor events. Input was also received from staff and the African American Heritage Board who agreed that it is not in the best interest to hold the event.

Festival of the Arts - Mr. Santucci said this event was also canceled; thereby, all January events were canceled. Hopefully, due to the steady decline in COVID cases, staff is hoping to host February events. Staff is working with the Cultural Committee to move the Festival of the Arts in conjunction with Pioneer Days, which is currently still in plan, as well as the Black Heritage Banquet, February 26th. Staff will continue to monitor the cases to determine if additional cancelations become necessary.

CITY COMMISSION BUSINESS

12. Resolution 2022/018 - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the First Amendment to the Memorandum of Understanding with Broward County and other participating municipalities regarding collaborative study and subsequent development of an integrated solid waste and recycling system, attached as Exhibit "A"; authorizing execution of the Agreement; authorizing the expenditure of up to \$24,966.37 as the City's contribution to procure the study; providing for conflicts, severability, and providing an effective date. (Funds from Account #450-4551-534-32-99 - Other Contractual Services)

The Resolution was read by title only.

CITY COMMISSION BUSINESS - CONTINUED

Commissioner Drosky provided a brief background on how the memorandum of understanding was implemented; wherein, in 2019, the County and cities formed the Solid Waste Working Group which he was the delegate. He said the options for cities moving forward are very limited due to there only being one local servicer; therefore, undergoing a study, capped at \$1 million is essential. The County has agreed to cover 50% of the amount and the remaining amount will be paid by the cities based on population. Deerfield Beach would be required to pay \$24,966.37; however, last year, \$40,000 was budgeted for this item. The more cities that participate, the figure could be lower, but 90% of Broward cities are needed to participate. Commissioner Drosky explained the five areas encompassed within the study: project planning & preparation; solid waste and regeneration study; types of material; waste composition; and recycling composition. It will take about a year to compile this information, but this is a necessary step to at least move the data forward.

David Santucci, City Manager, advised that when the study is done, every hauler will be researched, to include ride-alongs, checking weights on garbage trucks, and most importantly, the City will have a chance to obtain data on our operations.

Vice Mayor Preston thanked Commissioner Drosky for bringing the item forward; thereafter, he applauded the positive results the study may entail. He further commented on the need to consider options for the future and instead of operating in panic mode, to obtain the information and make intelligent decisions.

Mayor Ganz thanked Commissioner Drosky as well for the time he has devoted to this cause. Thereafter, the public hearing was opened; however, there were none to speak and the public hearing was closed.

Commissioner Parness commented on the loss of space at the landfill and explained that the city's refuse is taken to Orlando which begs the question as to where it will go when that is filled. A solution must be sought as shipping further away will cost more money since there is only one local servicer. He applauded Commissioner Drosky for acting on this and continued to comment on the importance of solving this issue.

Commissioner Drosky said raising the landfill's height limit will never be an option for him as the maximum height is 215 feet and believes there will one day be a proposal to raise the limit. Thus, this study is intended as a preventive measure.

MOTION was made by Commissioner Parness, seconded by Commissioner Drosky, to approve Item 12, adopted Resolution 2022/018. Roll Call:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

COMMENTS BY MAYOR & CITY COMMISSION**COMMISSIONER DROSKY****DISTRICT 4**

Water Rates - Commissioner Drosky advised that the water rates have not been increased for almost a decade and it has made it difficult to keep up with expenses related to water quality as evidenced by Item 9.

National League of Cities Annual Meeting - Commissioner Drosky said he would like to attend the meeting in Washington, DC on March 15th, City Commission meeting night, and asked that the meeting be rescheduled so he can attend. He asked that it be discussed at a later date for consideration.

Saturday Office Hours - Commissioner Drosky said office hours will be held on February 5th by phone or Zoom; appointments are still available.

COMMENTS BY MAYOR & CITY COMMISSION - CONTINUED**COMMISSIONER PARNESS****DISTRICT 3**

COVID-19 - Commissioner Parness said free testing is available at Total Medical; anyone desiring to be tested will remain in the vehicle and present insurance card. Test results may be returned in 2 days. He also encouraged everyone to continue to wear masks as people are still perishing as a result of the virus.

VICE MAYOR PRESTON**DISTRICT 2**

Black Heritage Banquet - Vice Mayor Preston said the banquet is scheduled for February 26th and hopes there will not be any outbreaks to force a cancelation.

COMMISSIONER HUDAK**DISTRICT 1**

Pioneer Park Boat Ramp - Commissioner Hudak requested an update on the ramp.

Priscilla Cygielnik, Director of Environmental Services, replied that final permitting is being secured. Upon receipt, the barge can be released to begin the work. She said within two weeks, there should be progress; whereby, a media release will be sent to the public soon to notify of the ramp closure.

Saturday Office Hours - Commissioner Hudak advised that office hours for February 12th have been canceled.

Broward Days Tallahassee - Commissioner Hudak said David Santucci, City Manager, Jonathan Salas, Assistant Director of Community Services, and he attended Broward Days. He explained what the event entailed; thereafter, he outlined projects requiring funding and the importance of building relationships in Tallahassee. Some of the projects included extending the railway along Dixie Highway to Sample Road to prevent more suicides and the continued adverse effects of short-term rentals. Commissioner Hudak said there are 141 registered properties for short-term rentals, and believes there are even more not registered. This has been a challenge in the City for a long time and has only exacerbated.

MAYOR BILL GANZ

City Appearance - Mayor Ganz said he wants the boat ramp to be up to speed, but also asked that staff be more vigilant in the appearance of Pioneer Park and the beach. Mayor Ganz said he is continually disappointed with people's behavior on the beach and believes staff can do a better job caring for the area.

Broward Sheriff's Office Police - Mayor Ganz applauded BSO for the reduced crime for burglaries. Mayor Ganz also commented on social media posts as there was a lot of misinformation regarding the burglaries. Additionally, he said there is still work to do as there are a lot of speeders on Hillsboro; notwithstanding, he asked that residents not depend on social media as an informational source.

Artwork Repair - Mayor Ganz asked when the artwork at the beach fire station would be addressed.

DFB Website - Mayor Ganz thanked Public Affairs & Marketing for their efforts in revitalizing the City's website.

Smart Assets - Mayor Ganz said Smart Assets is a financial technology advisory group and listed the City as #20 for beach affordability in the Country; in 2020, we were rated #27.

Charlie Thompson - Mayor Ganz commented on Mr. Thompson's in-depth knowledge of the City, his kindness and how he supported the students.

ADJOURNMENT

There was no additional business to discuss.

MOTION was made by Commissioner Hudak, seconded by Commissioner Parness to adjourn the meeting at 8:36 p.m. Voice Vote:

Yeas: 5 - Commissioner Drosky, Commissioner Hudak, Commissioner Parness, Vice Mayor Preston and Mayor Ganz

Nays: 0

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

Samantha Gillyard, CMC, City Clerk

HILLSBORO INLET DISTRICT
Minutes of Regular Monthly Meeting, Monday, November 15, 2021
Fletcher Hall, 2200 NE 38th Street, City of Lighthouse Point

MEMBERS PRESENT:

Chairman Denise Bryan
Commissioner Scott Loesel (Via Phone)
Commissioner Hank Sarkis
Commissioner Mohamed “Mo” Tarifi
Commissioner Randy Strauss
Commissioner Robert O’Neill

OTHERS PRESENT:

David N. Tolces, General Counsel, Weiss Serota Helfman
Cole & Bierman, P.L.
Captain Woodworth R. Draughon III
Assistant Captain, Alexander Cuevas
Pat Russel Anderson, Homeowner – Pompano Beach
Kimberly Longo, District Secretary

QUORUM PRESENT: The Secretary called the roll and established a quorum for the regular meeting. The meeting was called to order by Chair Bryan at 6:30 P.M.

APPROVAL OF MINUTES: A Motion to approve the October 18, 2021 Regular Meeting Minutes was made by Commissioner Sarkis and seconded by Commissioner Loesel.

Chair Bryan	Yes
Commissioner Loesel	Yes
Commissioner Sarkis	Yes
Commissioner Tarifi	Yes
Commissioner Strauss	Yes
Commissioner O’Neill	Yes

The Motion to approve the Regular Meeting Minutes was approved unanimously. (6-0)

APPROVAL OF OUTSTANDING BILLS: A Motion was made by Commissioner Loesel and seconded by Commissioner O’Neill for approval of all outstanding bills in the amount of \$38,066.68. The bills were reviewed and discussed in detail.

Chair Bryan	Yes
Commissioner Loesel	Yes
Commissioner Sarkis	Yes
Commissioner Tarifi	Yes
Commissioner Strauss	Yes
Commissioner O’Neill	Yes

The motion to approve the outstanding bills was approved unanimously. (6-0)

APPROVAL OF CURRENT MONTH'S EXPENSES: Motion was made by Commissioner Loesel and seconded by Commissioner O'Neill to approve current month's expenses of approximately \$40,000.00.

Chair Bryan	Yes
Commissioner Loesel	Yes
Commissioner Sarkis	Yes
Commissioner Tarifi	Yes
Commissioner Strauss	Yes
Commissioner O'Neill	Yes

The motion to approve current month's expenses was approved unanimously. (6-0)

DREDGE LOG: Captain Draughon presented the Inlet depth chart, which depicted six (6') feet controlling depth seaward and nine (9') feet controlling depth shoreward. There were zero (0) hours of dredging time due to the weather.

INLET STATUS REPORT: Captain Draughon advised the Board that the crew performed general maintenance. Captain Draughon also advised that the crew also performed the following:

1. Repaired the roof on the elbow barge;
2. Fabricated a new door on the dredge made out of starboard (the old one was rusted out);
3. Pushed the sand up onto the Coast Guard Beach (had two weeks of bulldozer rentals), everything is fixed and looks good;
4. Cleaned up shrubs and trees by the Clubhouse (looks very nice);
5. Turned the dredge around with the winds and tides so it would not get a beating from the northeast winds; and
6. Installed new fuel filters

Captain Draughon also advised the Board that Lovell Marine Construction, Inc. started the piling installation last Thursday. They finished the seawall, currently working on the boat slips and will start the three pilings at the Coast Guard dock.

Commissioner O'Neill asked if the District could quantify the cost and time to fix the Coast Guard Beach so that the District can be able to establish the value of the District to the Coast Guard. Attorney Tolces stated that he will forward pictures of the inlet and Coast Guard Beach to Captain Mautte and Lt. Becker of the Coast Guard.

PUBLIC COMMENTS: Chair Bryan asked if there were any public comments. Homeowner from Pompano Beach, Pat Russel Anderson, designed some souvenir t-shirts and advised that they are for sale at the museum.

NEW BUSINESS:

RESOLUTION NO. 2021-09 – ADDITIONAL COMPENSATION FOR EMPLOYEES:

Resolution No. 2021-09 was read into the record by General Counsel, David Tolces as follows:

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE HILLSBORO INLET DISTRICT, FLORIDA, AN INDEPENDENT SPECIAL DISTRICT OF THE STATE OF FLORIDA, AUTHORIZING EXTRA COMPENSATION TO BE PAID TO HILLSBORO INLET DISTRICT EMPLOYEES FOR EXEMPLARY PERFORMANCE DURING THE 2020 CALENDAR YEAR; PROVIDING SEVERABILITY; PROVIDING FOR CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.

A motion was made by Commissioner Strauss and seconded by Commissioner Sarkis to approve Resolution No. 2021-09 (Additional Compensation for Employees).

Chair Bryan	Yes
Commissioner Loesel	Yes
Commissioner Sarkis	Yes
Commissioner Tarifi	Yes
Commissioner Strauss	Yes
Commissioner O'Neill	Yes

The Motion to approve Resolution No. 2020-09 was approved unanimously. (6-0)

PROPOSED 2022 MEETING DATES: The Board discussed meeting dates for 2022.

OLD BUSINESS:

GENERAL COUNSEL COMMENTS: Attorney Tolces advised that he spoke to Jack Holland and that he sends his regards to everyone.

COMMISSIONER COMMENTS: Commissioner Strauss inquired about the December meeting date. Attorney Tolces stated the next meeting is on December 20 and that he will review with the Chair and District Accountant on whether a December meeting is needed due to any upcoming items before the Christmas holiday.

Motion was made by Commissioner Sarkis to adjourn the meeting and seconded by Commissioner Loesel. The meeting was adjourned at 6:49 PM by Chair Bryan.

Respectfully submitted,

Kimberly Longo, District Secretary



City Commission Meeting - February 15, 2022

DEERFIELD BEACH - YOU ARE HEREBY NOTIFIED that the **Regular City Commission** meeting will be held on **Tuesday, February 15, 2022, at 7:00 PM in the City Commission Chambers located at the City Hall Complex, 150 NE 2nd Avenue, Deerfield Beach, Florida.** A quorum of the City Commission will be physically present at the meeting and the City will be utilizing communications media technology with most City staff participating through video conferencing.

The February 15, 2022, Regular City Commission meeting will proceed utilizing communications media technology; **however, the City Commission Chambers located at the City Hall Complex, 150 NE 2nd Avenue, Deerfield Beach, will be open to the public as an additional method** for speakers wishing to speak on items with such attendees adhering to social distancing protocols, temperature checks and face covering recommendations. A copy of the agenda for the February 15, 2022 meeting will be available at <http://www.deerfield-beach.com/1554/Meetings-Agendas>.

Attending and Viewing the City Commission Meeting:

This meeting will be broadcast live for members of the public. There are several options available to the public to attend/view the meeting:

- 1. In Person Attendance.** Attend in person in the City Commission Chambers adhering to social distancing protocols, temperature checks and face covering recommendations.
- 2. Zoom**
 - a. Via Zoom Online** - Access to the meeting will begin at 6:45 PM on February 15, 2022.
 - i. Use the following link below to access the meeting via Zoom:
<https://deerfield-beach.zoom.us/j/85946774821?pwd=N25iLzBIY3hHRXljWlpXY0F1bIFCZz09>
 - ii. The video camera display feature is disabled for public use
 - b. Via Zoom Telephone** - Join the meeting via telephone (audio only) using the Call-in number below, followed by the Meeting ID when prompted. No computer or access code is required.

Call-in Number: (301) 715-8592, Meeting ID: 859 4677 4821#, Participant ID: #, Passcode: 261436#

For more information on using Zoom, please visit Zoom Support at the following link:
<https://support.zoom.us/hc/en-us>.

3. YouTube

The meeting will also be available to the public via YouTube for audio and video access; however, public participation, i.e. comments are not possible. The link to watch the meeting via YouTube will be active no later than 6:45 PM on February 15, 2022, and can be found by clicking the camera icon in the Media column at <http://www.deerfield-beach.com/1554/Meetings-Agendas>.

Providing Public Comment:

Public participation is strongly encouraged. Your comments will be limited to three minutes per person. To participate, please choose the option best for you and remember to include your name and address for the record.

1. **In person** - Public comment may be given in the Commission chambers during the applicable public comment portion of the meeting.
2. **Via Email** - Public comments and documents may be submitted via email to web.clerk@dfb.city. Public comments will be read aloud during the meeting and added to the record. Emails can be submitted prior to the meeting or until the public hearing session is closed.
3. **Live Zoom Video Participation** - If attending via Zoom online, at the appropriate public comment period, click “raise hand” on the bottom of the “participants” tab, and your audio will be unmuted when you are recognized.
4. **Live Zoom Telephone Participation** - If attending via Zoom by telephone, at the appropriate public comment period, press *9 to “raise your hand” and your audio will be unmuted when you are recognized.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHOULD CONTACT THE CITY CLERK NO LATER THAN 3 DAYS PRIOR TO THE MEETING AT (954) 480-4213 FOR ASSISTANCE.

Should you have any questions, please feel free to contact the City Clerk’s Office at 954.480.4213. For additional information on the agenda items for the Commission meeting, please visit www.dfb.city.



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1061

Agenda Date: 2/15/2022

Status: PUBLIC HEARING

In Control: City Commission

Title

P.H. 2022-036: Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, supporting the expansion of both Deerfield Beach Express I and II Community Shuttles for Saturday Services; approving the First Amendment to the Interlocal Agreement with Broward County for Community Shuttle Services to reflect a funding decrease, reflect an increase in service hours and days, and amend the vehicle list; authorizing execution of the First Amendment; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: (\$38,239.36)

Account Name: General Fund/Deerfield Express

Account Number: 001-0000-344-31-00

Background/History

On September 30, 2019, the City and Broward County (the "County") entered into an Interlocal Agreement for Community Shuttle Services (the "ILA"), for the provision of community shuttle services as an alternative form of public transportation for residents within the jurisdictional limits of the City. Pursuant to the ILA, the City operates the Deerfield Beach Express I (BCT Route 728) and Express II (BCT Route 729) Monday through Friday for the benefit of the residents and businesses of the City.

City residents have requested additional transportation services on Saturdays for both Deerfield Beach Express I and II (respectively, "DBE I" and "DBE II") to fulfill their accessibility and transportation needs. As of October 2, 2019, the City has been providing Saturday community shuttle services under DBE I from 8 am to 4pm.

Current Activity

On March 4, 2020, the City Commission approved extending service for both DBE I and II to include community shuttle service on Saturdays from 8 am to 4 pm. A public hearing is required for the extension of these services.

The County conducted an audit of municipalities' operating and maintenance costs associated with the community shuttle services. Based on this audit, the County has requested an amendment to the ILA to reflect a funding decrease consistent with the City's actual operating and maintenance costs. Additionally, the amendment will also reflect an increase in the City's service hours and days to include the Saturday services and amend the vehicle list to reflect the vehicles that are being utilized by the City (the "First Amendment").

Recommendation

Staff recommends approval of the First Amendment to the Interlocal Agreement and extension of the Saturday DBE I and DBE II routes.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, SUPPORTING THE EXPANSION OF BOTH DEERFIELD BEACH EXPRESS I AND II COMMUNITY SHUTTLES FOR SATURDAY SERVICES; APPROVING THE FIRST AMENDMENT TO THE INTERLOCAL AGREEMENT WITH BROWARD COUNTY FOR COMMUNITY SHUTTLE SERVICES TO REFLECT A FUNDING DECREASE, REFLECT AN INCREASE IN SERVICE HOURS AND DAYS, AND AMEND THE VEHICLE LIST; AUTHORIZING EXECUTION OF THE FIRST AMENDMENT; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, on October 1, 2019, the City of Deerfield Beach (the “City”) entered into an interlocal agreement with Broward County (the “County”) for community shuttle services (the “ILA”); and

WHEREAS, pursuant to the ILA, the City operates the Deerfield Beach Express I (BCT Route 728) and Express II (BCT Route 729) routes (respectively, “DBE I” and “DBE II”) Monday through Friday for the benefit of the residents and businesses of the City; and

WHEREAS, City residents have requested additional transportation services on Saturdays for both DBE I and II to fulfill their accessibility and transportation needs; and

WHEREAS, the City desires to expand the community shuttle service to include transportation services for DBE I and DBE II on Saturdays from 8 am to 4 pm (“Saturday Services”); and

WHEREAS, the City Commission supports the City’s request to the County to expand the DBE I and DBE II community shuttle service to include the Saturday Services; and

WHEREAS, the City and County desire to amend the ILA to reflect a funding decrease consistent with the City’s actual operating and maintenance costs, reflect an increase in the City’s service hours and days, and amend the vehicle list to reflect the vehicles that are being utilized by the City (the “First Amendment”); and

WHEREAS, the City Commission finds it in the best interest of the City to support the expansion of both DBE I and DBE II for Saturday Services, and approve and authorize execution of the First Amendment.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby supports the expansion of both DBE I and DBE II for Saturday Services.

Section 3. The First Amendment to the ILA with the County, attached as Exhibit “A,” is hereby approved.

Section 4. The City Manager is authorized to execute the First Amendment, attached as Exhibit “A,” together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 5. The appropriate City officials are authorized to take all necessary steps to implement the aims of this Resolution.

Section 6. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN
BROWARD COUNTY AND CITY OF DEERFIELD BEACH
FOR COMMUNITY SHUTTLE SERVICE**

This is the First Amendment to the Agreement (the "First Amendment") between Broward County (the "County") and the City of Deerfield Beach, a municipal corporation located in Broward County, Florida, organized and existing under the laws of the state of Florida (the "City") (collectively the "Parties").

RECITALS

A. The Parties entered into an Agreement dated September 30, 2019 (the "Agreement"), which provides for Community Shuttle Service as an alternative form of public transportation for residents within the jurisdictional limits of the City.

B. The Parties desire to enter this First Amendment to reflect a funding decrease consistent with the City's actual operating and maintenance costs; reflect an increase in the City's service hours and days; and amend the vehicle list to reflect the vehicles that are being utilized by the City.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Except as expressly modified herein, all terms and conditions of the Agreement remain in full force and effect. Amendments made to the Agreement pursuant to this First Amendment are indicated herein by use of strikethroughs to indicate deletions and bold/underlining to indicate additions. Terms used herein but not defined herein shall have the meaning ascribed to such terms in the Agreement.
2. Exhibit A is hereby deleted and replaced with the attached Revised Exhibit A.
3. Exhibit D is hereby amended as indicated in the attached Exhibit D.
4. Exhibit F is hereby amended as indicated in the attached Exhibit F.
5. The rates in Exhibit F are hereby amended as indicated in the attached Exhibit F retroactive to October 1, 2020.
6. The effective date of this First Amendment shall be the date of complete execution by both Parties. This First Amendment, together with the Agreement, represents the final and complete understanding of the Parties regarding the subject matter of the items addressed herein, and together with the Agreement, supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this First Amendment or the Agreement that is not contained in this written document or the Agreement.

7. This First Amendment may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.
8. Each individual executing this First Amendment on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this First Amendment, duly authorized by all necessary and appropriate action to execute this First Amendment on behalf of such party and does so with full legal authority.

(Remainder of Page Intentionally Left Blank)

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment to Agreement: Broward County, through its County Administrator, authorized to execute same by Board action on the 20th day of August, 2019, and the City of Deerfield Beach, signing by and through its _____, duly authorized to execute same.

COUNTY

WITNESSES:

BROWARD COUNTY, by and through
its County Administrator

(Signature)

By _____
Bertha Henry
County Administrator

(Print Name of Witness)

____ day of _____, 20__

(Signature)

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600
Telecopier: (954) 357-7641

(Print Name of Witness)

By _____
Angela J. Wallace (Date)
Transportation Surtax General Counsel

AJW/hb
City of Deerfield Beach Community Bus First Amendment
12/15/2021
#21-114.00

FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY
AND CITY OF DEERFIELD BEACH FOR COMMUNITY SHUTTLE SERVICE

CITY

CITY OF DEERFIELD BEACH

WITNESSES:

(Signature)

(Print Name of Witness)

(Signature)

(Print Name of Witness)

By _____

____ day of _____, 20__

Approved as to form:

By _____
City Attorney

Revised EXHIBIT "A" Service Schedules, Routes & Maps

EXPRESS I & II ROUTES COMMUNITY SHUTTLE SERVICE

The City of Deerfield Beach and Broward County Transit (BCT) have partnered to provide the **Express I & II** routes. This community shuttle service will increase the number of destinations and connections that can be reached through public transit. Destinations along the **Express I & II** routes include: Focal Point, Palm Apartments, B'Nai Brith Apartments, Praxis Apartments, Highlands Gardens, Broward Health North, Rivertown Square Winn-Dixie, Super Target at Hillsboro Boulevard and US1, Hillsboro Square Publix, Cove Shopping Center, Palm Trail Plaza Neighborhood Walmart, Sawgrass Promenade Publix, Ross Retail, Deerfield Mall, Century Plaza and surrounding neighborhoods.

Connections are available to BCT routes 10, 14, 20, 34, 48, 50, US1 Breeze, Tri-Rail Shuttle, Pompano Beach Blue and Orange Community Shuttles, Lighthouse Point, Deerfield Beach, Palm Tran Connection and Hillsboro Community Shuttles.

All shuttles utilized on these routes are air-conditioned and wheelchair accessible in accordance with the Americans with Disabilities Act (ADA). Bicycle racks are also provided. Please refer to this pamphlet for instruction on how to correctly use the bicycle racks.

The **Express I & II** Community Shuttle Routes are FREE but riders making connections to BCT routes are expected to pay the appropriate fares.

HOURS OF OPERATION

Express I & II Routes: Monday Through Saturday: 8:00AM – 4:00PM

The **Express I & II** Community Shuttle Routes operate approximately every 60 minutes, with assigned stops. Please refer to the timetable and map on the reverse side of this pamphlet. The shuttle will operate as close to schedule as possible. Traffic conditions and/or inclement weather may cause the shuttle to arrive earlier or later than the expected time. Please allow yourself enough time when using this service. The Deerfield Community Shuttle Routes will not operate once a hurricane warning has been issued or if other hazards do not allow for the safe operation of the shuttle.

HOLIDAY SCHEDULE

The **Express I & II** Community Shuttle Routes do not operate on the following holidays observed by the City of Deerfield Beach:

New Year's Day • Martin Luther King Jr.'s Birthday
Presidents' Day • Memorial Day • Juneteenth
Independence Day • Labor Day • Veterans Day
Thanksgiving Day and the day after • Christmas Eve
Christmas Day

BIKE RACKS

Bike racks are available on Deerfield Beach Community shuttles and are designed to carry two bikes only. It is important to have the operator's attention before loading and unloading your bike. As the shuttle approaches, have your bike ready to load. Remove any loose items that may fall off.

Loading

- Always load your bike from the curbside of the street.
- Lower-Squeeze the handle and pull down to release the folded bike rack.
- Lift your bike into the rack, fitting the wheels into the slots of the vacant position closest to the shuttle.
- Latch-Pull and release the support arm over the front tire, making sure the support arm is resting on the tire, not on the fender or frame.

Unloading

- Before exiting, notify the operator you are removing your bike.
- Pull the support arm off the tire. Move the support arm down and out of the way. Lift your bike out of the rack. If your bike is the only one on the rack, return the rack to the upright position.
- Move quickly to the curb.

Information

For more information about the Deerfield Beach

Express I or Express II call:

954-480-4444 • 954-480-4442

Monday through Saturday

8:00AM - 4:00PM

Hearing-speech impaired/TTY:

TTY 954-480-4449*

*Teletype machine required

Visit the City of Deerfield Beach web site:

www.deerfield-beach.com

For more information about BCT routes, fares or connections call:

BCT Rider Info: 954-357-8400

Hearing-speech impaired/TTY: **954-357-8302**

Visit Broward County Transit's web site:

www.Broward.org/BCT

This publication can be made available in alternative formats upon request by contacting 954-357-8400 or TTY 954-357-8302.



BROWARD COUNTY
BOARD OF COUNTY
COMMISSIONERS
Transit Division

An equal opportunity employer and provider of services.

000 copies of this public document were promulgated at a gross cost of \$000 and \$0.0 per copy to Broward County Transit (BCT) and the Deerfield Beach community Shuttle Express I and II. Printed 3/21

PROTECTIONS OF TITLE VI OF THE CIVIL RIGHTS ACT OF 1964 AS AMENDED

Any person(s) or group(s) who believes that they have been subjected to discrimination because of race, color, or national origin, under any transit program or activity provided by Broward County Transit (BCT), may call 954-357-8481 to file a Title VI discrimination complaint or write to Broward County Transit Division, Compliance Manager, 1 N. University Drive, Suite 3100A, Plantation, FL 33324.

DEERFIELD BEACH
Express I - BCT Route 728
Express II - BCT Route 729



Deerfield Beach

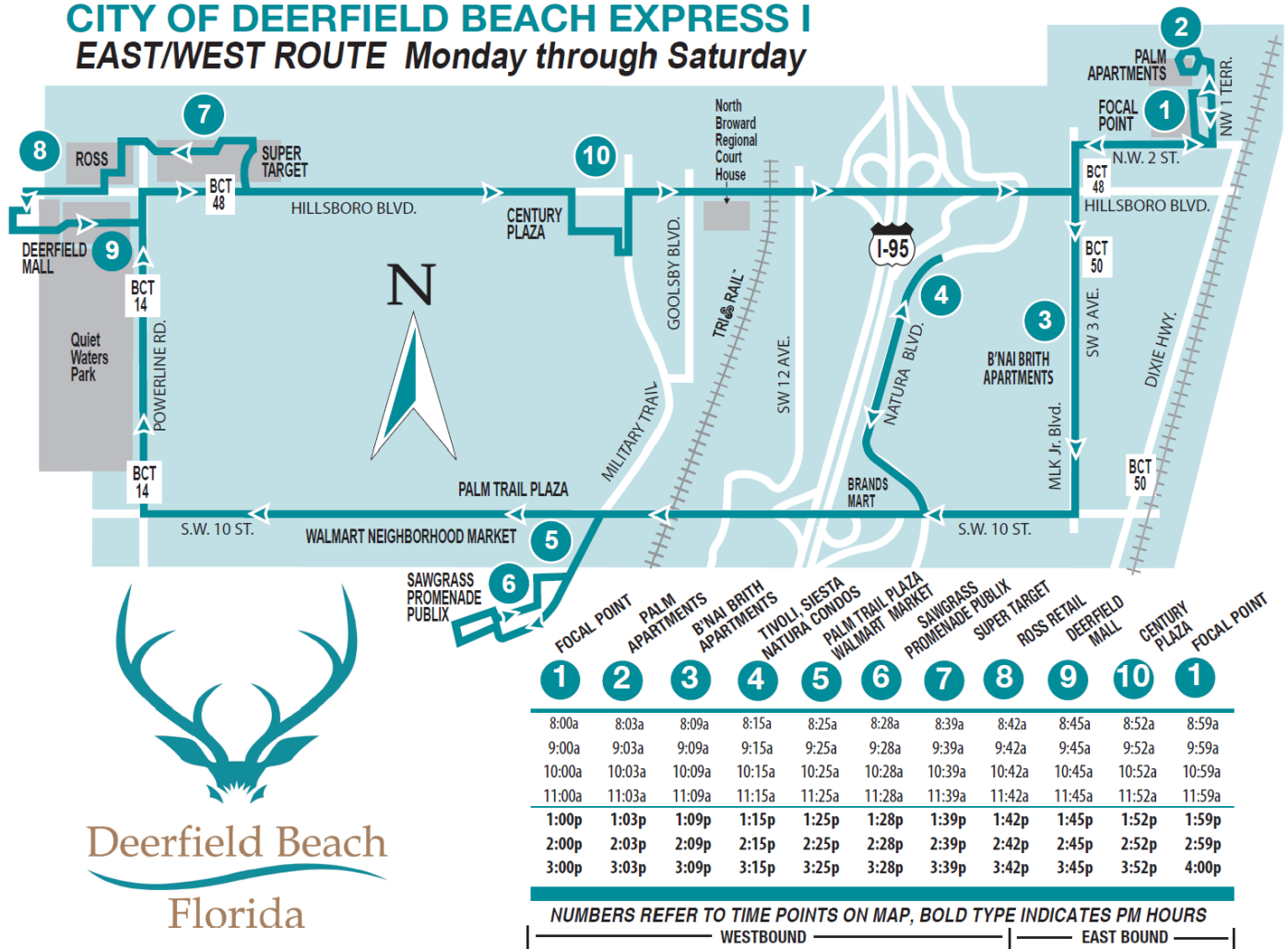
Florida

**Community Shuttle Service
Routes and Timetables**



Effective: July 7, 2020

CITY OF DEERFIELD BEACH EXPRESS I
EAST/WEST ROUTE Monday through Saturday



CITY OF DEERFIELD BEACH EXPRESS II EAST/NORTH and SOUTH ROUTE Monday through Saturday

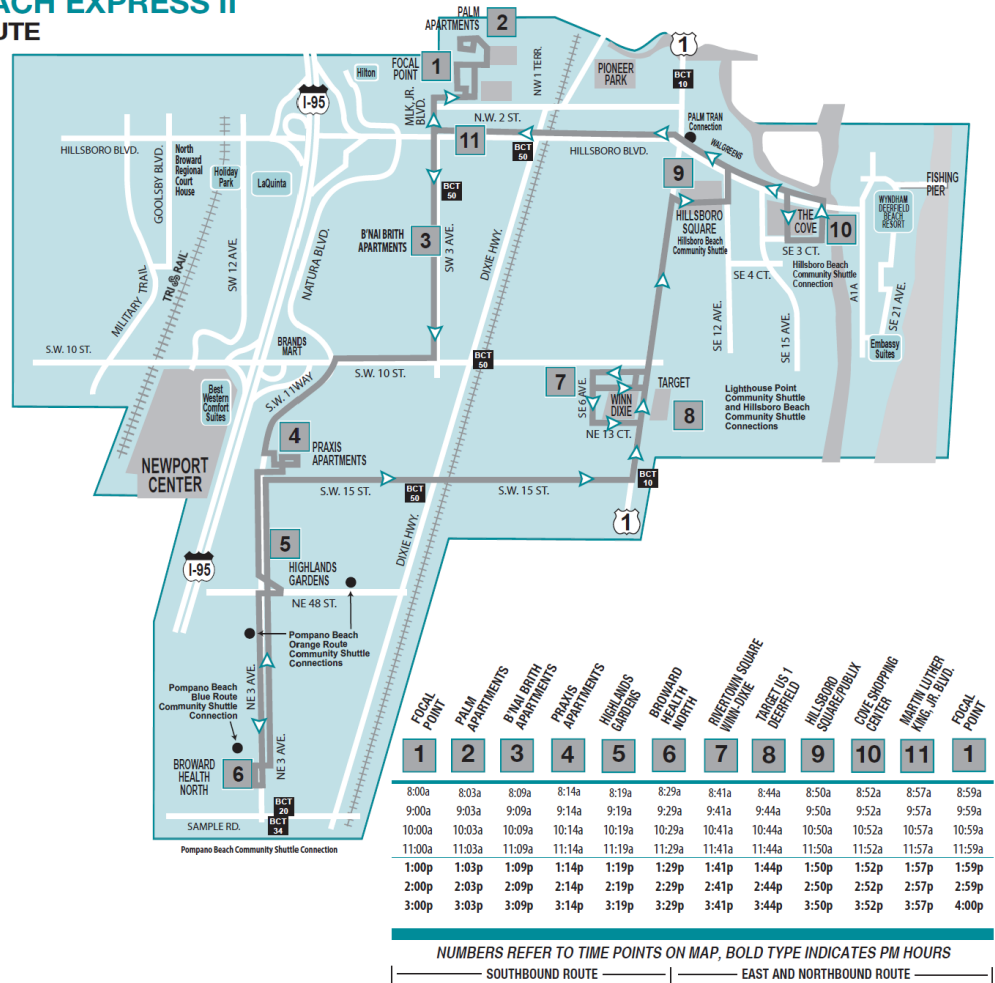


EXHIBIT "D"

City of Deerfield Beach

Vehicles for Fiscal Year ~~2020~~ 2021

<u>Vehicle #</u>	<u>Year</u>	<u>Make</u>	<u>Seats</u>	<u>Asset</u>	<u>VIN</u>
M1367	2013	ENC Aerotech	16/2	316400	4GB6G5BL8C1200170
<u>M2037</u>	<u>2021</u>	<u>Champion Defender</u>	<u>16/2</u>	<u>339637</u>	<u>1FDUF5GN7LEE97629</u>
<u>M2038</u>	<u>2021</u>	<u>Champion Defender</u>	<u>16/2</u>	<u>339638</u>	<u>1FDUF5GN6LEE97640</u>

EXHIBIT "F"

City of Deerfield Beach

Annual Operating Funding - FY 2020 2021

Community Bus Service (\$58.20/Hour \$44.14/Hour)

Buses	Route	Service	Span of Service	Frequency	Daily Service Hours	Days	Funding Per Revenue Hour	Annual Funding
1	Express I	Mon-Fri	8:00a - 4:00p	60 min	8.42 <u>8.33</u>	251	\$58.20 <u>\$44.14</u>	\$118,618.58 <u>92,289.23</u>
			<u>8:00a-12:00p</u>					
<u>1</u>	<u>Express I</u>	<u>Saturday</u>	<u>1:00p-4:00p</u>	<u>60 min</u>	<u>8.33</u>	<u>52</u>	<u>\$44.14</u>	<u>\$19,119.68</u>
1	Express II	Mon-Fri	8:00a - 4:00p	60 min	8.42 <u>8.33</u>	251	\$58.20 <u>\$44.14</u>	\$118,618.58 <u>92,289.23</u>
			<u>8:00a-12:00p</u>					
<u>1</u>	<u>Express II</u>	<u>Saturday</u>	<u>1:00p-4:00p</u>	<u>60 min</u>	<u>8.33</u>	<u>52</u>	<u>\$44.14</u>	<u>\$19,119.68</u>
Total Annual Funding								<u>\$237,237.17</u> <u>222,817.82</u>
Decreased Annual Cost to Amendment								<u><u>(\$14,419.35)</u></u>



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1077

Agenda Date: 2/15/2022

Status: PUBLIC HEARINGS –
SECOND READING

In Control: City Commission

Title

P.H. 2022-035: ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; APPROVING SUPPLEMENTAL APPROPRIATIONS AND BUDGET TRANSFERS TO VARIOUS CITY FUNDS, AND REDUCING APPROPRIATIONS TO THE DISASTER RECOVERY INITIATIVE GRANT FUND BY \$108,000 AND THE 2000 BOND FUND BY \$91,160, AS SET FORTH IN THE ATTACHED EXHIBIT "A"; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE.

Recommended Action

Commission to vote on Ordinance

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

In accordance with Florida Statue, 166.241(5)(c), the governing body of each municipality at any time within a fiscal year or within 60 day, may amend the budget for a purpose not specifically authorized in paragraph 166.241(5)(a) or paragraph (b), must adopt the budget amendment in the same manner as the original budget. This proposed amendment to the budget meets this requirement.

Article 5 of the City Charter provides that if there are revenues in excess of those estimated in the budget, the Commission by ordinance may make supplemental appropriations for the year up to the amount of such excess.

Current Activity

Supplemental budget appropriation is requested for:

A. The General Fund in the amount of \$736,939 for the following needs:

1. Carryforward of \$2,552 for vital records control for City Clerk's Office.
2. Carryforward of \$11,321 related to supply chain delays and delivery of workstations for Financial Services department.
3. Carryforward of \$46,278 related to A&E for various projects for Environmental Services.
4. Carryforward of \$66,663 related to maintenance projects in progress at the fiscal year end for Parks and Recreation.
5. Transfer to Capital Project Fund of \$610,125 related to reclass of on-going capital projects to the new Capital Projects Fund and for an emergent need explained below.

B. The Capital Projects Fund in the amount of \$610,125 for the following needs:

1. Carryforwards net \$160,125 for vehicle purchase and concession stand roof repair began in FY2021.
2. Repair/Replacement of the South Wedding Deck of \$450,000.

C. The Road and Bridge Fund in the amount of \$152,023 for carryforwards related to multi-year projects in addition to \$740,233 of new emergent needs related to funding shortfall for the FAU Research Blvd (SW 11 Way) Roadway Improvement and the Pioneer Grove Infrastructure Improvements and Complete Streets funded by the motor fuel surtax.

D. Various Public Safety/Law Enforcement Funds for anticipated expenditures as authorized by the funding source to be covered by restricted donations and fund balance:

1. Nuisance Abatement Assessment in the amount of \$60,000,
2. Deerfield Beach PAL in the amount of \$60,000,
3. Crime Prevention in the amount of \$20,000,
4. Car Seat Trust in the amount of \$5,968, and
5. PAL Donation in the amount of \$3,000.

E. The Enterprise Funds for carryforwards and allocation of the American Rescue Plan (ARP) funding for the approved project:

1. Stormwater in the amount of \$229,407
2. Water & Sewer Renewal/Replacement in the amount \$2,800,000

F. The 2018 Bund Fund of \$5,258,898 for the available bond proceeds yet to be encumbered/obligated or spent.

Budget deappropriation for the following Funds:

A. Disaster Recover Initiative Grant of \$108,000 as related goods and/or services were received prior to FYE2021.

B. 2000 Bond of \$91,160 adjustment related to bond proceed reconciliations.

Additionally, staff conducted a public information session regarding the FY2022 Budget Amendment on Wednesday, February 15, 2022 at 7:00 PM utilizing communications media technology.

Recommendation

Staff recommends adoption of the ordinance.

ORDINANCE NO. 2022/

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, ADOPTING AN AMENDMENT TO THE CITY BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; APPROVING SUPPLEMENTAL APPROPRIATIONS AND BUDGET TRANSFERS TO VARIOUS CITY FUNDS, AND REDUCING APPROPRIATIONS TO THE DISASTER RECOVERY INITIATIVE GRANT FUND BY \$108,000 AND THE 2000 BOND FUND BY \$91,160, AS SET FORTH IN THE ATTACHED EXHIBIT "A"; PROVIDING FOR CONFLICTS, SEVERABILITY AND AN EFFECTIVE DATE

WHEREAS, pursuant to Section 166.241(5), Florida Statutes, "the governing body of each municipality at any time within the fiscal year or within 60 days following the end of the fiscal year may amend a budget for that year"; and

WHEREAS, the City Manager has certified that there are revenues or unappropriated fund balance available for appropriation in excess of those originally estimated in the budget for the fiscal year ending September 30, 2022; and

WHEREAS, pursuant to Section 5.05(1) of the City Charter, the City Commission may, by Ordinance, make supplemental appropriations for the fiscal year, up to the amount of such excess revenues and unappropriated fund balance; and

WHEREAS, pursuant to Section 5.05(2) of the City Charter, the City Commission may, by Ordinance, reduce appropriations to a fund for the fiscal year when it appears probable to the City Manager that the revenues available will be insufficient to meet the amount appropriated to such fund; and

WHEREAS, the proposed budget amendment, attached and incorporated herein as Exhibit "A", authorizes (i) supplemental appropriations and budget transfers to various City Funds, as reflected in Exhibit "A", and (ii) the reduction of appropriations to the Disaster Recovery Initiative Grant Fund by \$108,000 and to the 2000 Bond Fund by \$91,160 (collectively, the "Amendments"); and

WHEREAS, City staff recommends approving the Amendments to the City's budget for the fiscal year ending September 30, 2022, as set forth in the attached Exhibit "A", (the "Budget Amendment").

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. That the above "WHEREAS" clauses are true and correct and are made a part hereof.

Section 2. That the Budget Amendment, as set forth in the attached Exhibit “A”, is hereby approved.

Section 3. That the appropriate City officials are authorized to do all things necessary and expedient to carry out the aims of this Ordinance.

Section 4. All ordinances or parts of ordinances and all resolutions or parts of resolutions in conflict with this Ordinance are hereby repealed to the extent of such conflict.

Section 5. Should any section or provision of this ordinance or any portion thereof, any paragraph, sentence or word be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder hereof as a whole or part thereof other than the part declared to be invalid.

Section 6. This Ordinance shall take effect immediately upon its passage and adoption on Second Reading.

PASSED 1ST READING ON THIS ____ DAY OF _____, 2022.

PASSED 2ND READING ON THIS ____ DAY OF _____, 2022.

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

"EXHIBIT A"
CITY OF DEERFIELD BEACH, FLORIDA
BUDGET AMENDMENT
FISCAL YEAR ENDING SEPTEMBER 30, 2022

GENERAL FUND REVENUES:	ORIGINAL BUDGET	BUDGET AMENDMENT	AMENDED BUDGET
TOTAL SOURCES	114,787,671		114,787,671
Transfers In	10,041,061		10,041,061
Fund Balances/Reserves	4,498,397	736,939	5,235,336
TOTAL REVENUES, TRANSFERS & BALANCES	129,327,129	736,939	130,064,068

EXPENDITURES:			
City Commission	458,194		458,194
City Manager	636,558		636,558
City Clerk	568,556	2,552	571,108
City Attorney	550,000		550,000
Central Services	2,652,844		2,652,844
Financial Services	3,111,214	11,321	3,122,535
Human Resources	12,551,327		12,551,327
Planning & Development Services	1,622,290		1,622,290
Information Technology Services	2,607,896		2,607,896
Community Services	2,330,698		2,330,698
Economic Development	525,005		525,005
Public Affairs & Marketing	650,737		650,737
Office of Public Safety	69,877,643		69,877,643
Sustainable Management	1,298,986		1,298,986
Environmental Services	2,541,487	46,278	2,587,765
Parks & Recreation	14,827,886	66,663	14,894,549
Non-Departmental	11,312,011	610,125	11,922,136
Community Participation	125,000		125,000
Debt Service	1,078,797		1,078,797
TOTAL EXPENDITURES	129,327,129	736,939	130,064,068

TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	129,327,129	736,939	130,064,068

GENERAL CAPITAL FUND REVENUES:	ORIGINAL BUDGET	BUDGET AMENDMENT	AMENDED BUDGET
Interfund Transfer In	10,905,958	610,125	11,516,083
TOTAL SOURCES	10,905,958	610,125	11,516,083

EXPENDITURES:			
Capital Project Expenditures	10,905,958	610,125	11,516,083
TOTAL EXPENDITURES	10,905,958	610,125	11,516,083

TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	10,905,958	610,125	11,516,083

ROAD AND BRIDGE FUND			
REVENUES:	ORIGINAL	BUDGET	AMENDED
	BUDGET	AMENDMENT	BUDGET
Fund Balances/Reserves	5,730,224	892,256	6,622,480
TOTAL SOURCES	5,730,224	892,256	6,622,480
EXPENDITURES:			
Infrastructure Maintenance	5,730,224	892,256	6,622,480
TOTAL EXPENDITURES	5,730,224	892,256	6,622,480
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	5,730,224	892,256	6,622,480

NUISANCE ABATEMENT ASSESSMENT FUND			
REVENUES:	ORIGINAL	BUDGET	AMENDED
	BUDGET	AMENDMENT	BUDGET
Special Assessment		16,539	16,539
Fund Balances/Reserves		43,461	43,461
TOTAL SOURCES		60,000	60,000
EXPENDITURES:			
Nuisance Abatement		60,000	60,000
TOTAL EXPENDITURES		60,000	60,000
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES		60,000	60,000

DEERFIELD BEACH PAL			
REVENUES:	ORIGINAL	BUDGET	AMENDED
	BUDGET	AMENDMENT	BUDGET
Fund Balances/Reserves		60,000	60,000
TOTAL SOURCES		60,000	60,000
EXPENDITURES:			
LETF Expenditures		60,000	60,000
TOTAL EXPENDITURES		60,000	60,000
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES		60,000	60,000

CRIME PREVENTION FUND			
REVENUES:	ORIGINAL	BUDGET	AMENDED
	BUDGET	AMENDMENT	BUDGET
Fund Balances/Reserves		20,000	20,000
TOTAL SOURCES		20,000	20,000
EXPENDITURES:			
LETF Expenditures		20,000	20,000
TOTAL EXPENDITURES		20,000	20,000
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES		20,000	20,000

CAR SEAT TRUST FUND			
REVENUES:	ORIGINAL BUDGET	BUDGET AMENDMENT	AMENDED BUDGET
Fund Balances/Reserves		5,968	5,968
TOTAL SOURCES		5,968	5,968
EXPENDITURES:			
LETf Expenditures		5,968	5,968
TOTAL EXPENDITURES		5,968	5,968
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES		5,968	5,968

PAL DONATIONS FUND			
REVENUES:	ORIGINAL BUDGET	BUDGET AMENDMENT	AMENDED BUDGET
Fund Balances/Reserves		3,000	3,000
TOTAL SOURCES		3,000	3,000
EXPENDITURES:			
LETf Expenditures		3,000	3,000
TOTAL EXPENDITURES		3,000	3,000
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES		3,000	3,000

DISASTER RECOVERY INITIATIVE GRANT FUND			
REVENUES:	ORIGINAL BUDGET	BUDGET AMENDMENT	AMENDED BUDGET
Hazard Mitigation Grant Program (HMGP)	120,000	(108,000)	12,000
TOTAL SOURCES	120,000	(108,000)	12,000
EXPENDITURES:			
HMGP Expenditures	120,000	(108,000)	12,000
TOTAL EXPENDITURES	120,000	(108,000)	12,000
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	120,000	(108,000)	12,000

2000 BOND FUND			
REVENUES:	ORIGINAL BUDGET	BUDGET AMENDMENT	AMENDED BUDGET
Loan Proceeds	225,573	(91,160)	134,413
TOTAL SOURCES	225,573	(91,160)	134,413
EXPENDITURES:			
Capital Outlay Expenditures	225,573	(91,160)	134,413
TOTAL EXPENDITURES	225,573	(91,160)	134,413
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	225,573	(91,160)	134,413

2018 BOND FUND	ORIGINAL	BUDGET	AMENDED
REVENUES:	BUDGET	AMENDMENT	BUDGET
Loan Proceeds	22,314,204	5,258,898	27,573,102
TOTAL SOURCES	22,314,204	5,258,898	27,573,102
EXPENDITURES:			
Capital Outlay Expenditures	22,314,204	5,258,898	27,573,102
TOTAL EXPENDITURES	22,314,204	5,258,898	27,573,102
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	22,314,204	5,258,898	27,573,102

STORMWATER FUND	ORIGINAL	BUDGET	AMENDED
REVENUES:	BUDGET	AMENDMENT	BUDGET
Fund Balances/Reserves	3,154,905	229,407	3,384,312
TOTAL SOURCES	3,154,905	229,407	3,384,312
EXPENDITURES:			
Capital Outlay Expenditures	3,154,905	229,407	3,384,312
TOTAL EXPENDITURES	3,154,905	229,407	3,384,312
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	3,154,905	229,407	3,384,312

WATER & SEWER RENEWAL/REPLACEMENT FUND	ORIGINAL	BUDGET	AMENDED
REVENUES:	BUDGET	AMENDMENT	BUDGET
Interfund Transfer In	4,264,755	2,800,000	7,064,755
TOTAL SOURCES	4,264,755	2,800,000	7,064,755
EXPENDITURES:			
ARP Expenditures	4,264,755	2,800,000	7,064,755
TOTAL EXPENDITURES	4,264,755	2,800,000	7,064,755
TOTAL APPROPRIATED EXPENDITURES			
TRANSFERS, RESERVES & BALANCES	4,264,755	2,800,000	7,064,755



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1085

Agenda Date: 2/15/2022

Status: BOARD APPOINTMENT

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, appointing Annette Mitchell as a regular commissioner of the Deerfield Beach Housing Authority to fill an unexpired term; and providing an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

Pursuant to Section 421.05, Fla. Stat., the governing board of the Deerfield Beach Housing Authority (the "Board") shall consist of no fewer than five persons and no more than seven persons. The Board shall have at least one member who shall be a resident who is current in rent in a housing project, or person of low or very low income who resides within the housing authority's jurisdiction and is receiving rent subsidy through a program administered by the authority or public housing agency that has jurisdiction for the same locality served by the housing authority, which board commissioner shall be appointed at the time a vacancy exists.

Annette Mitchell served as the resident commissioner but no longer qualifies as such. Ms. Mithcell has expressed interest in continuing to serve on the Board as a regular commissioner. The Mayor desires to appoint Ms. Mitchell as a regular commissioner to the Board to fulfill an unexpired term, which will end April 20, 2023.

Current Activity

Upon approval, the Housing Authority will have five (5) members with two (2) vacancies, one of which will be the resident member vacancy.

Recommendation

Approval is recommended.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPOINTING ANNETTE MITCHELL AS A REGULAR COMMISSIONER OF THE DEERFIELD BEACH HOUSING AUTHORITY TO FILL AN UNEXPIRED TERM; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Deerfield Beach Housing Authority (“DBHA”) was created pursuant to Section 421.04, Florida Statutes; and

WHEREAS, pursuant to Section 421.05, Florida Statutes, the Mayor, with approval of the City Commission, shall appoint no fewer than five persons and no more than seven persons as commissioners of the DBHA for four-year terms each, with at least one commissioner to serve as the tenant-commissioner; and

WHEREAS, Annette Mitchell was appointed as a tenant-commissioner under Section 421.05, Florida Statutes; and

WHEREAS, Ms. Mitchell no longer meets the guidelines to serve as a tenant-commissioner, but has expressed interest in continuing to serve on the DBHA as a regular commissioner; and

WHEREAS, the Mayor desires to appoint Annette Mitchell as a regular commissioner of the DBHA; and

WHEREAS, pursuant to Section 421.05, Florida Statutes, City Commission approval of the appointment is required.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. Annette Mitchell is hereby appointed as a regular commissioner of the DBHA to fulfill an unexpired term ending on April 20, 2023.

Section 3. Annette Mitchell shall serve without compensation and is required to file a financial disclosure statement in accordance with State Statutes.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK



HOUSING AUTHORITY

Creating Authority:

Resolution No. C-1698 (F.S. 421.04)

Method of Appointment:

Resolution of Commission as of June 23, 1980
All Terms for four (4) years each.

Financial Disclosure:

Required

Compensation:

None

Liaison:

TBD, (954) 425-8449

Meeting Dates:

3rd Wednesday

Functions and Responsibilities:

According to Florida Statutes.

Name	Address	Phone	Replaces	Resolution Number	Date Appointed	Term Expires
VACANT			Reynolds			12/04/22
Anthony T. Pelt	10647 NW 7 th Place Coral Springs, FL 33071	282-8291(H) 775-4667(C)	Self	2018/060	05/01/18	04/20/22
Diane Chisholm	375 NW 7 th Court Deerfield Beach, FL 33441	263-1624	Self	2021/055	04/20/21	09/30/24
Annette Mitchell	235 SW 3 rd Court Deerfield Beach, FL 33441	754-422-9698 754-367-3848	Self	2017/157	11/16/21	12/03/25
Pastor Tony Guadagnino	4113 Eastridge Circle Pompano Beach, FL 33064	783-7769 673-7769 (C)	Self	2018/060	05/01/18	04/20/22
VACANT			Gayle			04/20/23
Gail Battle	633 NW 3 rd Way Deerfield Beach, FL 33441	573-3175 (C)	NEW	2019/103	08/06/19	08/06/23



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1086

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the settlement of all claims against the City in the litigation styled *David Kinberg vs. City of Deerfield Beach*; authorizing execution of documents necessary to effectuate the settlement; providing for an effective date. (Funds from Account #606-0900-519-37-71 - Risk Management/General Liability)

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: \$50,000

Account Name: Risk Management/General Liability

Account Number: 606-0900-519-37-71

Background/History

David Kinberg ("Kinberg") filed a lawsuit against the City of Deerfield Beach styled *David Kinberg vs. City of Deerfield Beach*, Case No. CACE-18-027542, in the Seventeenth Circuit Court in and for Broward County, Florida. The Lawsuit alleges that, on April 26, 2016, Kinberg tripped and fell on an indentation in the paved sidewalk near the pier where a bollard was missing causing him to suffer a significant fracture in his right shoulder and seek considerable medical treatment and physical therapy.

Current Activity

Mr. Kinberg has provided medical bills for treatment (including the surgery) totaling approximately \$98,000.00. Kinberg is willing to settle all of his claims against the City, including all costs and attorney's fees incurred in this matter, for the total sum of \$50,000.00.

Recommendation

Approval.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE SETTLEMENT OF ALL CLAIMS AGAINST THE CITY IN THE LITIGATION STYLED *DAVID KINBERG VS. CITY OF DEERFIELD BEACH*; AUTHORIZING EXECUTION OF DOCUMENTS NECESSARY TO EFFECTUATE THE SETTLEMENT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, David Kinberg (“Kinberg”) filed a lawsuit against the City of Deerfield Beach styled *David Kinberg vs. City of Deerfield Beach*, Case No. CACE-18-027542, in the Seventeenth Circuit Court in and for Broward County, Florida (the “Lawsuit”); and

WHEREAS, the Lawsuit alleges that Kinberg tripped and fell on an indentation in the paved sidewalk near the pier where a bollard was missing causing him to suffer a significant fracture in his right shoulder and seek considerable medical treatment and physical therapy; and

WHEREAS, Kinberg is willing to settle all of his claims against the City, including all costs and attorney’s fees incurred in this matter, for the total sum of \$50,000.00; and

WHEREAS, although the City asserts that it was not responsible for Kinberg’s alleged damages, the City Commission deems it to be in the best interest of the City to approve the settlement of the Lawsuit in the total amount of \$50,000.00, including attorney’s fees and costs, thereby disposing of all claims that were or could have been asserted against the City and its employees by Kinberg.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part hereof.

Section 2. The City Commission hereby approves the settlement of the Lawsuit for the total amount of \$50,000.00, including attorney’s fees and costs, thereby disposing of all claims against the City and its employees that were or could have been asserted by Kinberg against the City or its employees.

Section 3. That the appropriate City officials are authorized to execute all documents deemed necessary by the City Attorney to implement the intent of this Resolution and to provide for payment as indicated.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1087

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the Settlement Agreement and Release with Endo Health Solutions, Inc. and Endo Pharmaceuticals, Inc., related to the Opioids Litigation; authorizing execution of the settlement agreement; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

The City of Deerfield Beach (the "City") has suffered harm from the opioid epidemic. The State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida Cities and Counties have also filed an action In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the "Opioid Litigation"). The City is a litigating participant in that action.

Current Activity

The State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from Opioid Litigation. The Florida Memorandum of Understanding (the "Florida Plan") sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds. Participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations.

On September 13, 2021, the City Commission approved and authorized execution of the Florida Plan. In order to receive settlement proceeds from a proposed settlement with certain distributors and manufacturers of opioid (in this case Endo Health and Endo Pharmaceuticals), the City must execute the formal settlement agreement with Endo Health Solutions Inc. and Endo Pharmaceuticals Inc. (the "Settlement Agreement"). The Florida Attorney General's Office estimates that the City will receive approximately \$16,700 as a result of this settlement.

Recommendation

City Commission approval of the Settlement Agreement.

RESOLUTION NO. 2022/

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
DEERFIELD BEACH, FLORIDA, APPROVING THE SETTLEMENT
AGREEMENT AND RELEASE WITH ENDO HEALTH SOLUTIONS
INC. AND ENDO PHARMACEUTICALS INC. RELATED TO THE
OPIOIDS LITIGATION; AUTHORIZING EXECUTION OF THE
SETTLEMENT AGREEMENT; PROVIDING FOR
IMPLEMENTATION AND AN EFFECTIVE DATE**

WHEREAS, the City of Deerfield Beach (the “City”) has suffered harm from the opioid epidemic; and

WHEREAS, the City Commission recognizes that the entire State of Florida has suffered harm as a result of the opioid epidemic; and

WHEREAS, the State of Florida has filed an action pending in Pasco County, Florida, and a number of Florida Cities and Counties have also filed an action In re: National Prescription Opiate Litigation, MDL No. 2804 (N.D. Ohio) (the “Opioid Litigation”); and

WHEREAS, the City is a litigating participant in the Opioid Litigation; and

WHEREAS, the State of Florida and lawyers representing certain various local governments involved in the Opioid Litigation have proposed a unified plan for the allocation and use of prospective settlement dollars from opioid related litigation; and

WHEREAS, the Florida Memorandum of Understanding (the “Florida Plan”) sets forth a framework of a unified plan for the proposed allocation and use of opioid settlement proceeds and it is anticipated that formal agreements implementing the Florida Plan will be entered into at a future date; and

WHEREAS, participation in the Florida Plan by a large majority of Florida cities and counties will materially increase the amount of funds to Florida and should improve Florida's relative bargaining position during additional settlement negotiations; and

WHEREAS, on September 13, 2021, the City Commission approved and authorized execution of the Florida Plan; and

WHEREAS, in order to receive settlement proceeds for a proposed settlement with Endo Health Solutions Inc. and Endo Pharmaceuticals Inc. (collectively, “Endo”), the City must execute the formal settlement agreement and release with Endo, attached as Exhibit “1” (the “Settlement Agreement”); and

WHEREAS, the City Commission deems it to be in the best interests of the City to approve and authorize execution of the Settlement Agreement with Endo.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the Settlement Agreement, attached as Exhibit “1,” with Endo.

Section 3. The Mayor and City Manager are authorized to execute the Settlement Agreement with Endo, attached as Exhibit “1”, together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

SETTLEMENT AGREEMENT AND RELEASE

This Settlement Agreement is made and entered into this 15th day of January 2022, among Endo, (defined below), the State of Florida and its Office of the Attorney General (“Plaintiff” or “State”) (collectively, the “Settling Parties”), and State Outside Litigation Counsel (defined below) in the lawsuit captioned *State of Florida, Office of the Attorney General, Department of Legal Affairs v. Purdue Pharma, L.P., et al.* (Case No. 2018-CA-001438) (Fla. Cir. Ct. Pasco County) (the “Florida AG Action”). This Settlement Agreement is intended by the Settling Parties to fully, finally and forever resolve, discharge and settle the Released Claims (as defined below), upon and subject to the terms and conditions hereof (the “Settlement”).

WHEREAS, Plaintiff filed its complaint in the Florida AG Action (i) alleging, among other things, that Endo, among others, violated Florida law by deceptively marketing opioid pain medications so as to overstate their efficacy and downplay the associated risk of addiction, which resulted in a public nuisance in Florida; (ii) alleging that Endo, among others, violated the law by failing to monitor, report and not ship allegedly suspicious orders of opioid pain medications; (iii) alleging that Endo, among others, violated Fla. Stat. § 895.03(3), (4); and (iv) asserting Claims (as defined below) for damages, equitable abatement, civil penalties, attorneys’ fees and reimbursed litigation costs, and other relief;

WHEREAS, Plaintiff brought the Florida AG Action in its sovereign capacity as the people’s attorney in order to protect the public interest, including the interests of the State of Florida, its governmental subdivisions and its citizens;

WHEREAS, numerous Litigating Subdivisions (defined below) have filed Actions (defined below) in various forums against Endo, among others, raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct (defined below) and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action;

WHEREAS, there are numerous Subdivisions (defined below) that are not Litigating Subdivisions (“Non-Litigating Subdivisions”) that could seek to file additional Actions raising Claims or allegations concerning, related to, based upon, or in connection with the Covered Conduct and seeking relief that overlaps in whole or in part with the relief sought in the Florida AG Action and the Actions filed by Litigating Subdivisions;

WHEREAS, Endo (i) denies each and all of the Claims and allegations of wrongdoing made by Plaintiff in the Florida AG Action and by the Litigating Subdivisions in each of the Actions and maintains that it has meritorious defenses; (ii) denies all assertions of wrongdoing or liability against Endo arising out of any of the conduct, statements, acts or omissions alleged, or that could have been alleged, in the Florida AG Action or in other Actions already brought by Litigating Subdivisions or that could be brought by such plaintiffs or by Non-Litigating Subdivisions, and contends that the factual allegations made in the Florida AG Action and the Litigating Subdivisions’ Actions relating to Endo are false and materially inaccurate; (iii) denies that Plaintiff, or any Litigating Subdivision, or any other Subdivision, or any Florida resident, was harmed by any conduct of Endo alleged in the Florida AG Action, the Litigating Subdivisions’ Actions, or otherwise; (iv) denies liability, expressly denies any wrongdoing, and denies it violated any federal or state statute or common law; and (v) maintains that Endo would be able to successfully defend against Plaintiff’s Claims and allegations at trial, that the facts do not support the allegations, that Endo engaged in no misconduct or unlawful activity, and caused no harm to Plaintiff or to the Litigating Subdivisions, other Subdivisions, or any Florida residents;

WHEREAS, the Parties have investigated the facts and analyzed the relevant legal issues regarding the Claims and defenses that have been or could have been asserted in the Florida AG Action and any other Actions;

WHEREAS, the Parties have each considered the costs and delays and uncertainty associated with the continued prosecution and defense of the Florida AG Action and the other Actions;

WHEREAS, the Parties believe the Settlement set forth herein avoids the uncertainties of litigation and assures that the benefits reflected herein are obtained;

WHEREAS, Plaintiff has concluded that the terms of the Settlement are fair, reasonable and adequate and in the best interest of Plaintiff and all Subdivisions and Florida citizens and residents;

WHEREAS, Plaintiff has determined that continuation or commencement of Actions against Endo by Litigating Subdivisions or other Subdivisions would unduly interfere with Plaintiff's litigation authority to bring and resolve litigation in which the State has an interest and frustrate Plaintiff's efforts to obtain a favorable settlement;

WHEREAS, the Parties agree that neither this Agreement nor any statement made in the negotiation thereof shall be deemed or construed to be a concession as to any Claim, an admission, evidence of any violation of any statute or law, evidence of any liability or wrongdoing by Endo, or evidence of the truth of any of the Claims, allegations, denials, or defenses made in the Florida AG Action or the Litigating Subdivisions' Actions; and

WHEREAS, arm's-length settlement negotiations have taken place over the course of several weeks between Endo and Plaintiff;

WHEREAS, Plaintiff views prompt settlement on the terms enclosed herein to be in the public interest and crucial to the State of Florida and its citizens; recognizes that Subdivisions may, notwithstanding their willingness to sign on to this settlement, wish to reserve the right to challenge the Attorney General's authority to bind them in other litigation that does not arise out of or relate to the Covered Conduct; and represents that Plaintiff shall not use those Subdivisions' acceptance

of the terms of this Settlement as precedent in any litigation matter that does not arise out of or relate to the Covered Conduct;

NOW, THEREFORE, IT IS HEREBY AGREED by and between Plaintiff and Endo, by and through their respective counsel, as follows:

A. Definitions. As used in this Agreement, the following capitalized terms have the meanings specified below.

(a) “Actions” means the Florida AG Action and any lawsuit by a Subdivision asserting any Released Claim against any Releasee.

(b) “Agreement,” “Settlement” or “Settlement Agreement” means this Settlement Agreement, together with any exhibits attached hereto, which are incorporated herein by reference.

(c) “Bankruptcy Code” means Title 11 of the United States Code, 11 U.S.C. § 101, et seq.

(d) “Bar” means either: (1) a law barring all Subdivisions in the State of Florida from maintaining Released Claims against Releasees (either through a direct bar or through a grant of authority to release Claims and the exercise of such authority in full) or (2) a ruling by the Florida Supreme Court (or a District Court of Appeal if a decision is not subject to further review by the Florida Supreme Court) setting forth the general principle that Subdivisions in the State of Florida may not maintain any Released Claims against Releasees, whether on the ground of this Agreement (or the release in it) or otherwise. For the avoidance of doubt, a law or ruling that is conditioned or predicated upon payment by a Releasee (apart from the payments by Endo contemplated under this Agreement) shall not constitute a Bar.

(e) “Claim” means any past, present or future cause of action, claim for relief, cross-claim or counterclaim, theory of liability, demand, derivative claim, request, assessment, charge, covenant, damage, debt, lien, loss, penalty, judgment, right, obligation, dispute, suit, contract, controversy, agreement, parens patriae claim, promise, performance, warranty, omission, or grievance of any nature whatsoever, whether legal, equitable, statutory, regulatory or administrative, whether arising under federal, state or local common law, statute, regulation, guidance, ordinance or principles of equity, whether filed or unfiled, whether asserted or unasserted, whether known or unknown, whether accrued or unaccrued, whether foreseen, unforeseen or unforeseeable, whether discovered or undiscovered, whether suspected or unsuspected, whether fixed or contingent, and whether existing or hereafter arising, in all such cases, including, but not limited to, any request for declaratory, injunctive, or equitable relief, compensatory, punitive, or statutory damages, absolute liability, strict liability, restitution, subrogation, contribution, indemnity, apportionment, disgorgement, reimbursement, attorney fees, expert fees, consultant fees,

finances, penalties, expenses, costs or any other legal, equitable, civil, administrative or regulatory remedy whatsoever.

(f) “Claim-Over” means a Claim asserted by any entity that is not a Releasor against a Releasee on the basis of contribution, indemnity, or other claim-over on any theory relating to Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) asserted by a Releasor.

(g) “Consent Judgment” means a consent decree, order, judgment, or similar action; in connection with this Agreement, the Parties have agreed to the entry of the Consent Judgment attached hereto as Exhibit H, which provides for the release set forth below and the dismissal with prejudice of any Released Claims that the State of Florida Office of the Attorney General has brought against Releasees, on the terms and conditions specified herein.

(h) “Court” means the Sixth Judicial Circuit Court in and for Pasco County, State of Florida.

(i) “Covered Conduct” means any actual or alleged act, failure to act, negligence, statement, error, omission, breach of any duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity of any kind whatsoever from the beginning of time through the Effective Date of the Release (and any past, present or future consequence of any such act, failure to act, negligence, statement, error, omission, breach of duty, conduct, event, transaction, agreement, misstatement, misleading statement or other activity) arising from or relating in any way to: (1) the discovery, development, manufacture, packaging, repackaging, marketing, promotion, advertising, labeling, recall, withdrawal, distribution, delivery, monitoring, reporting, supply, sale, prescribing, dispensing, physical security, warehousing, use or abuse of, or operating procedures relating to, any Product, or any system, plan, policy or advocacy relating to any Product or class of Products, including, but not limited to, any unbranded promotion, marketing, programs or campaigns relating to any Product or class of Products; (2) the characteristics, properties, risks or benefits of any Product; (3) the reporting, disclosure, non-reporting or non-disclosure to federal, state or other regulators of orders placed with any Releasee; (4) the purchasing, selling, acquiring, disposing of, importing, exporting, applying for quota for, procuring quota for, handling, processing, packaging, supplying, distributing, converting, or otherwise engaging in any activity relating to, precursor or component Products, including, but not limited to, natural, synthetic, semi-synthetic, or chemical raw materials, starting materials, active pharmaceutical ingredients, drug substances or any related intermediate Products; and (5) diversion control programs or suspicious order monitoring.

(j) “Effective Date of the Agreement” means 3 business days after the Initial Participation Date, provided that either a Bar exists or a sufficient number of Subdivisions have become Participating Subdivisions by the Initial Participation Date. The Parties may alter the Effective Date of the Agreement by mutual written agreement.

(k) “Effective Date of the Release” means the date on which the Court enters the Consent Judgment.

- (l) “Endo” means Endo Health Solutions Inc. and Endo Pharmaceuticals Inc.
- (m) “Execution Date” means the date on which this Agreement is executed by the last party to do so.
- (n) “Initial Participation Date” means the date by which Litigating Subdivisions must join to become initial Participating Subdivisions. The Initial Participation Date shall be 30 days after the Execution Date. The Parties may alter the Initial Participation Date by mutual written agreement.
- (o) “Litigating Subdivision” means a Subdivision (or Subdivision official) that has brought any Released Claim against any Releasees on or before December 31, 2021, including, but not limited to, the agreed list of Litigating Subdivisions set forth in Exhibit A.
- (p) “Litigation Costs” means attorneys’ fees and investigative and litigation costs and expenses incurred in connection with Claims asserted against any Releasee in the Florida AG Action or any Litigating Subdivision’s Action.
- (q) “Non-Joining Subdivision” means any Litigating Subdivision or Principal Subdivision that does not execute a subdivision settlement participation form attached as Exhibit D by the Post Effective Date Sign-on Deadline.
- (r) “Non-Litigating Subdivision” means a Subdivision that is not a Litigating Subdivision.
- (s) “Non-Participating Subdivision” means a Subdivision that is not or is not yet a Participating Subdivision.
- (t) “Opioid Remediation” means care, treatment and other programs and expenditures (including reimbursement for past such programs or expenditures, except where this Agreement restricts the use of funds solely to future Opioid Remediation) designed to (1) address the misuse and abuse of opioid products, (2) treat or mitigate opioid use or related disorders, or (3) mitigate other alleged effects of, including on those injured as a result of, the opioid epidemic. Exhibit C provides a non-exhaustive list of expenditures that qualify as being paid for Opioid Remediation. Qualifying expenditures may include reasonable related administrative expenses.¹
- (u) “Participating Subdivision” means any Subdivision that executes a subdivision settlement participation form attached as Exhibit D.
- (v) “Parties” and “Settling Parties” means Endo and Plaintiff, with each being a “Party” and “Settling Party.”

¹ Opioid Remediation includes amounts paid to satisfy any future demand by another governmental entity to make a required reimbursement in connection with the past care and treatment of a person.

(w) “Post-Effective Date Sign-on Deadline” means the deadline for Subdivisions to execute a subdivision settlement participation form attached as Exhibit D, which shall be 150 days after the Effective Date of the Agreement.

(x) “Principal Subdivision” means: (1) a County, regardless of population; or (2) a Subdivision that is not a County, but is a General Purpose Government entity (including a municipality, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government) with a population of more than 10,000, including, but not limited to, the agreed list of Principal Subdivisions attached hereto as Exhibit B.

(y) “Product” means any chemical substance, whether used for medicinal or non-medicinal purposes, and whether natural, synthetic, or semi-synthetic, or any finished pharmaceutical product made from or with such substance, that is: (1) an opioid or opiate, as well as any product containing any such substance; or (2) benzodiazepine, carisoprodol, or gabapentin; or (3) a combination or “cocktail” of chemical substances prescribed, sold, bought or dispensed to be used together that includes opioids or opiates. “Product” shall include, but is not limited to, any substance consisting of or containing buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, tramadol, opium, heroin, carfentanil, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, midazolam, carisoprodol, gabapentin, or any variant of these substances or any similar substance. Notwithstanding the foregoing, nothing in this definition prohibits a Releasor from taking administrative or regulatory action related to benzodiazepine (including, but not limited to, diazepam, estazolam, quazepam, alprazolam, clonazepam, oxazepam, flurazepam, triazolam, temazepam, and midazolam), carisoprodol, or gabapentin that is wholly independent from the use of such drugs in combination with opioids, *provided* such action does not seek money (including abatement and/or remediation) for conduct prior to the Execution Date.

(z) “Qualified Settlement Fund” means the Florida Qualified Settlement Fund contemplated by this Agreement, into which all payments by Endo shall be made and which shall be established under the authority and jurisdiction of the Court and which shall be a “qualified settlement fund” within the meaning of 26 C.F.R. § 1.468B-1.

(aa) “Qualified Settlement Fund Administrator” means the Administrator appointed to administer the Qualified Settlement Fund under the authority and jurisdiction of the Court. The duties of the Qualified Settlement Fund Administrator shall be governed by this Agreement. The identity of the Qualified Settlement Fund Administrator and a detailed description of the Qualified Settlement Fund Administrator’s duties and responsibilities, including a detailed mechanism for paying the Qualified Settlement Fund Administrator’s fees and costs, will be set forth in a separate document to be prepared by the Parties and filed with the Court to establish the fund and be attached later to this Agreement as Exhibit E.

(bb) “Released Claims” means any and all Claims that directly or indirectly are based on, arise out of, or in any way relate to or concern the Covered Conduct occurring prior to the Effective Date of the Release. Without limiting the foregoing, Released Claims

include any Claims that have been asserted against the Releasees by Plaintiff or any Litigating Subdivision in any federal, state or local Action or proceeding (whether judicial, arbitral or administrative) based on, arising out of or relating to, in whole or in part, the Covered Conduct, or any such Claims that could be or could have been asserted now or in the future in those Actions or in any comparable Action or proceeding brought by Plaintiff, any of its Subdivisions, or any Releasor (whether or not such State, Subdivision, or Releasor has brought such Action or proceeding). Released Claims also include all Claims asserted in any proceeding to be dismissed pursuant to this Agreement, whether or not such Claims relate to Covered Conduct. The Parties intend that this term, "Released Claims," be interpreted broadly. This Agreement does not release Claims by private individuals for damages for any alleged personal injuries arising out of their own use of any Product. It is the intent of the Parties that Claims by private individuals be treated in accordance with applicable law. Released Claims is also used herein to describe Claims brought or maintained by any Subdivision in the future that would have been Released Claims if they had been brought by a Releasor against a Releasee.

(cc) "Releasees" means: (i) Endo Health Solutions Inc.; (ii) Endo Pharmaceuticals Inc.; (iii) all of their respective past and present direct or indirect parents, subsidiaries, divisions, affiliates, joint ventures, predecessors, successors, assigns and insurers (in their capacity as such), including, but not limited to, Par Pharmaceutical, Inc., Par Pharmaceutical Companies, Inc., and Endo International plc; and (iv) the past and present officers, directors, members, shareholders (solely in their capacity as shareholders of the foregoing entities), partners, trustees, employees, agents, attorneys and insurers of each of the foregoing entities and persons referenced in clauses (i) through (iii) above for actions or omissions that occurred during and related to their work for, or employment with, any of the foregoing entities with respect to the Released Claims.

(dd) "Releasors" means with respect to Released Claims: (1) the State; (2) each Participating Subdivision; and (3) without limitation and to the maximum extent of the power of each of the State, the Florida Attorney General and/or Participating Subdivision to release Claims, (a) the State of Florida's and each Subdivision's departments, agencies, divisions, boards, commissions, Subdivisions, districts, instrumentalities of any kind and any person in his or her official capacity, whether elected or appointed to lead or serve any of the foregoing, and any agency, person or entity claiming by or through any of the foregoing; (b) any public entities, public instrumentalities, public educational institutions, unincorporated districts, fire districts, irrigation districts, water districts, law enforcement districts, emergency services districts, school districts, hospital districts and other special districts in the State of Florida, and (c) any person or entity acting in a *parens patriae*, sovereign, quasi-sovereign, private attorney general, *qui tam*, taxpayer, or other capacity seeking relief on behalf of or generally applicable to the general public with respect to the State of Florida or any Subdivision in the State of Florida, whether or not any of them participates in this Agreement. Nothing in this definition shall be construed to limit the definition of "Subdivision" in subsection A(gg) below. In addition to being a Releasor as provided herein, a Participating Subdivision shall also provide a subdivision settlement participation form (attached as Exhibit D) providing for a release to the fullest extent of the Participating Subdivision's authority, an executed copy of which shall be attached as an exhibit to and deemed to be a part of this Agreement.

(ee) “State Outside Litigation Counsel” means Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.; Drake Martin Law Firm, LLC; Harrison Rivard Duncan & Buzzett, Chartered; Newsome Melton, P.A.; and Curry Law Group, P.A.

(ff) “State-Subdivision Agreement” means a separate agreement among Plaintiff and all Participating Subdivisions providing for an allocation of, among other things, the Remediation Payment (defined below). The State-Subdivision Agreement is attached hereto as Exhibit I.

(gg) “Subdivision” means (1) any General Purpose Government entity (including, but not limited to, a municipality, county, county subdivision, city, town, township, parish, village, borough, gore or any other entities that provide municipal-type government), School District, or Special District within a State, and (2) any other subdivision or subdivision official or sub-entity of or located within a State (whether political, geographical or otherwise, whether functioning or non-functioning, regardless of population overlap, and including, but not limited to, nonfunctioning governmental units and public institutions) that has filed or could file a lawsuit that includes a Released Claim against a Releasee in a direct, parens patriae, or any other capacity. “General Purpose Government,” “School District,” and “Special District” shall correspond to the “five basic types of local governments” recognized by the U.S. Census Bureau and match the 2017 list of Governmental Units. The three (3) General Purpose Governments are county, municipal, and township governments; the two (2) special purpose governments are School Districts and Special Districts. “Fire District,” “Health District,” “Hospital District,” and “Library District” shall correspond to categories of Special Districts recognized by the U.S. Census Bureau. References to a State’s Subdivisions or to a Subdivision “in,” “of,” or “within” a State include Subdivisions located within the State even if they are not formally or legally a sub-entity of the State.

B. Release and Dismissals in the Florida AG Action and other Actions.

1. It is the intention of the Settling Parties to fully and finally resolve all Released Claims that have been or could be brought against the Releasees by Plaintiff or any Subdivision with respect to the Covered Conduct, and that the release of such Claims does not affect Plaintiff’s or the Subdivisions’ Claims as to any other defendant. Plaintiff represents and warrants that it will use its best efforts to obtain a consensual release of any and all Claims involving Covered Conduct that Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Regardless whether such consensual release is obtained, Plaintiff represents and warrants under this Agreement that it is exercising its authority under law to release any and all Claims involving Covered Conduct that

Plaintiff and all Subdivisions, including any Litigating Subdivision or Non-Litigating Subdivision, have asserted or could assert against the Releasees. Plaintiff further represents and warrants that it will use all available authority to bind, and under this Agreement is exercising such authority to bind, Plaintiff and all Subdivisions, including all Litigating Subdivisions and Non-Litigating Subdivisions, regardless of whether they become Participating Subdivisions or Non-Joining Subdivisions, to the terms of this Agreement.

2. In addition to the general release and dismissal to be provided by Plaintiff set forth in Sections D & E, Plaintiff will deliver to Endo signed agreements from: (a) each Subdivision that executes a signed agreement by the Initial Participation Date; and (b) each Subdivision that executes a signed agreement by the Post-Effective Date Sign-on Deadline (i.e., within 150 days following the Effective Date of the Agreement). Such agreements shall include: (a) the Subdivision's acceptance of the terms and conditions of this Agreement by signing the subdivision settlement participation form attached as Exhibit D; (b) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to implement an immediate cessation of any and all litigation activities relating to such Litigating Subdivision's Action as to all Releasees; (c) in the case of a Litigating Subdivision, an agreement that Plaintiff may represent that the Litigating Subdivision supports the Consent Judgment to be entered in accordance with Section F below; and (d) in the case of a Litigating Subdivision, such Litigating Subdivision's agreement to file, within the later of seven (7) days of the Effective Date of the Release, or seven (7) days of signing the subdivision settlement participation form, a notice or stipulation of voluntary dismissal with prejudice of any and all Released Claims asserted by the Litigating Subdivision against the Releasees, with each party to bear its own costs.

3. Between the Execution Date and the Initial Participation Date, Plaintiff agrees to furnish to Endo a report listing the Subdivisions that have executed the signed agreements

described in Section B.2 and copies of such signed agreements on a weekly basis. Plaintiff further agrees to furnish to Endo no later than noon Eastern Time on the day after the Initial Participation Date and a final report listing the Subdivisions that have executed the signed agreements described in Section B.2 by the Initial Participation Date and copies of all such signed agreements. After the Initial Participation Date, the parties shall confer and establish a schedule for the regular provision of such reports and copies of signed agreements.

4. Plaintiff represents and warrants that, if any Action remains pending against one or more Releasees after the Effective Date of the Agreement or is filed by a Subdivision against any Releasee on or after the Execution Date, Plaintiff will seek to obtain dismissal of such Action as to such Releasees as soon as reasonably possible. Depending on facts and circumstances, Plaintiff may seek dismissal, among other ways, by intervening in such Action to move to dismiss or otherwise terminate the Subdivision's Claims in the Action or by commencing a declaratory judgment or other action that establishes a Bar to the Subdivision's Claims and Action. For avoidance of doubt, Plaintiff will seek dismissal of an Action under this paragraph regardless whether the Subdivision in such Action is a Participating Subdivision.

5. In the event that the actions required of Plaintiff in Section B.4 fail to secure the prompt dismissal or termination of any Action by any Subdivision against any Releasee, Plaintiff shall seek enactment of a legislative Bar as defined in Section A(d)(1) and will endeavor to achieve enactment as soon as is practicable. Participating Subdivisions agree not to oppose any effort by Plaintiff to achieve enactment of a legislative Bar.

6. Plaintiff further represents and warrants that no portion of the Remediation Payment or the Litigation Costs Payments will be distributed to or used for the benefit of any Subdivision unless and until Plaintiff has delivered to Endo a signed agreement from such Subdivision providing for the Subdivision's acceptance of the terms and conditions of this

Agreement, including its express agreement to be bound by the irrevocable releases set forth in Section D below.

C. Settlement Consideration.

1. Remediation Payment and Litigation Costs Payments.

(a) On or before the later of (a) seven (7) days after the Effective Date of the Release, or (b) seven (7) days after (i) the Qualified Settlement Fund has been established under the authority and jurisdiction of the Court, and (ii) Endo has received a W-9 and wire instructions for the Qualified Settlement Fund, Endo Pharmaceuticals Inc. shall pay into the Qualified Settlement Fund the sum of sixty-five million dollars (\$65,000,000), consisting of (a) fifty-five million dollars (\$55,000,000) for opioid remediation (the “Remediation Payment”), to be allocated in accordance with subsection C.3 below; (b) five million dollars (\$5,000,000) to be available to reimburse the State’s Litigation Costs in accordance with subsection C.1(c) below (the “State Litigation Cost Payment”); and (c) five million dollars (\$5,000,000) to be available to reimburse the Litigation Costs of Litigating Subdivisions in accordance with subsection C.1(b) below (the “Litigating Subdivision Litigation Cost Payment”). The State Litigation Cost Payment and the Litigating Subdivision Cost Payment shall collectively be referred to herein as the “Litigation Costs Payments.” The Qualified Settlement Fund Administrator shall allocate each of the Remediation Payment, the State Litigation Cost Payment, and the Litigating Subdivision Litigation Cost Payment into separate sub-funds within the Qualified Settlement Fund. Release of the Remediation Payment and the Litigation Costs Payments from the Qualified Settlement Fund shall be subject to the conditions specified below.

(b) An agreement on the handling of Litigating Subdivision Litigation Costs is attached as Exhibit G and incorporated herein by reference. The Litigating Subdivision Litigation Cost Payment is to be available to reimburse counsel for Litigating Subdivisions that become Participating Subdivisions and who waive any other right(s) they may have to compensation in connection with this Settlement for reasonable Litigation Costs incurred in connection with their Claims against Releasees.

- (1) The Qualified Settlement Fund Administrator shall allow eligible counsel reimbursement for reasonable Litigation Costs as provided in Exhibit G. Such Litigation Costs shall be divided among Participating Subdivisions as provided in Exhibit G under the jurisdiction and authority of the Court. Any amount remaining in the Litigation Subdivision Litigation Costs Payment sub-fund after such allocation shall be returned to Endo.
- (2) No funds may be used to compensate Litigation Costs incurred by Non-Participating Subdivisions or Non-Litigating Subdivisions, or Litigation Costs arising out of representation of any such Subdivision.

- (3) No attorney for any Litigating Subdivision may receive any share of the Litigating Subdivision Litigation Cost Payment unless the following eligibility requirements are met and certified by the attorney:
- i. The attorney must represent that s/he has no present intent to represent or participate in the representation of any Subdivision or any Releasor with respect to the litigation of any Released Claims against any Releasees.
 - ii. The attorney must represent that s/he will not charge or accept any referral fees for any Released Claims asserted or maintained against Releasees by any Subdivision or any Releasor.
 - iii. The attorney may not have, and must represent that s/he does not have, a claim for fees, costs or expenses related to the litigation of any Released Claims against any Releasees by any Subdivision or any Releasor after December 31, 2021.
 - iv. Notwithstanding the foregoing, nothing in this subsection C.1(b)(3) is intended to operate as a “restriction” on the right of any attorney to practice law within the meaning of Rule 5.6(b) of the Florida Rules of Professional Conduct or any equivalent provision of any other jurisdiction’s rules of professional conduct.

(c) Plaintiff shall file in the Court a motion for the State’s Litigation Costs up to \$5,000,000. Endo shall not oppose the motion so long as the State does not seek more than \$5,000,000 in Litigation Costs. If any amount of the \$5,000,000 is not awarded by the Court, that amount shall be returned to Endo. As set forth in Section C.2 below, in the event the Court awards the State Litigation Costs in excess of \$5,000,000, the Releasees shall have no obligation to pay any amount in excess of the State Litigation Cost Payment.

2. No Other Payments by Releasees as to Covered Conduct, Released Claims, the Florida AG Action, Other Actions, Plaintiff, Subdivisions or State Outside Litigation Counsel or Litigation Costs. Other than the Remediation Payment and the Litigation Costs Payments by Endo Pharmaceuticals Inc. referenced in Section C.1(a), none of the Releasees shall have any obligation to make any further or additional payments in connection with Claims for Covered Conduct or Litigation Costs or this Settlement.

3. Apportionment of the Remediation Payment.

(a) It is the intent of the Parties that the Remediation Payment in Section C.1(a) be used exclusively for Opioid Remediation.

(b) In accordance with the State-Subdivision Agreement in Exhibit I, the Remediation Payment shall be allocated by the Qualified Settlement Fund Administrator into three sub-funds: an Abatement Accounts Sub-Fund (also known as a regional fund), a State Sub-Fund, and a Subdivision Sub-Fund to be allocated to the Abatement Accounts Sub-Fund or to another Participating Subdivision.

(c) A detailed mechanism consistent with the foregoing for a Qualified Settlement Fund Administrator to follow in allocating, apportioning and distributing payments that will be filed with the Court and later attached as Exhibit J.

(d) Endo shall have no duty, liability, or influence of any kind with respect to the apportionment and use of the Remediation Payment by the Qualified Settlement Fund Administrator. Plaintiff specifically represents, however, that any such apportionment and use by the Qualified Settlement Fund Administrator shall be made in accordance with all applicable laws.

4. Release of the State Fund. Within a reasonable period after the Effective Date of the Agreement or otherwise as ordered by the Court, the Qualified Settlement Fund Administrator shall release the State Fund to Plaintiff.

5. Subdivision Payments to Subdivisions that Become Participating Subdivisions Prior to the Initial Participation Date. A Participating Subdivision that (a) completes a subdivision settlement participation form prior to the Initial Participation Date, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Effective Date of the Agreement.

6. Subdivision Payments to Subdivisions that Become Participating Subdivisions After the Initial Participation Date. A Participating Subdivision that (a) completes a subdivision settlement participation form after the Initial Participation Date and by no later than the Post-

Effective Date Sign-on Deadline, (b) joins the Florida Opioid Allocation and Statewide Response Agreement (Exhibit I), and (c) in the case of a Litigating Subdivision, dismisses with prejudice any and all Released Claims asserted by the Litigating Subdivision against the Releasees shall be eligible to receive payment of a share of the Remediation Payment within a reasonable period after the Post-Effective Date Sign-on Deadline.

7. **Reversion to Endo of Amounts Forfeited by Non-Joining Subdivisions.** Any Litigating Subdivision or Principal Subdivision that does not sign a participation agreement by the Post-Effective Date Sign-on Deadline will be deemed a Non-Joining Subdivision. At Endo's request to the Qualified Settlement Fund Administrator, any Non-Joining Subdivision's share of the Remediation Payment (and to the extent any such subdivision is a Litigating Subdivision the Litigation Cost Payments) shall be returned to Endo within a reasonable time after the Post-Effective Date Sign-on Deadline.

8. **Agreement Null and Void if the Agreement Does Not Become Effective.** In the event that the Effective Date of the Agreement does not occur and the Parties fail to agree to extend the Effective Date of the Agreement, the Agreement shall be null and void.

9. **Use of Evidence at Trial in the Florida AG Action.** Plaintiff agrees that none of the Releasees will be a defendant in any trial of the Florida AG Action, that no Releasee will be subpoenaed or called to testify by Plaintiff in any trial of the Florida AG Action and that any evidence that references the Releasees or the Products will be used solely against other defendants in the Florida AG Action.

10. **Verdict Form.** Plaintiff agrees that it will not seek to have any of the Releasees included on the verdict form in any trial related to the Florida AG Action and will oppose the efforts of any other party in the Florida AG Action to include any of the Releasees on the verdict form.

11. Injunctive Relief. As part of the Consent Judgment to be entered in accordance with Section F below, the Parties agree to the entry of injunctive relief terms attached in Exhibit E.

D. Settlement of Claims and General Release.

1. **Scope.** On the Effective Date of the Release, Plaintiff and each Releasor shall be deemed to have fully, finally and forever released all Releasees from all Released Claims. Plaintiff, on behalf of itself and all other Releasors (whether or not they have signed this Agreement or the subdivision settlement participation form in Exhibit D), hereby absolutely, unconditionally and irrevocably covenants not to bring, file, or claim, or to cause, assist, or permit to be brought, filed, or claimed, any Released Claims of any type in any forum whatsoever against Releasees. For the avoidance of doubt, Plaintiff agrees that this Settlement Agreement and the releases contained herein shall fully and completely resolve any past, present or future liability that any Releasee may have arising from, relating to or based on the Covered Conduct occurring prior to the Effective Date of the Release, whether in the Actions or otherwise. The releases provided for in this Agreement are intended by the Settling Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any and all Released Claims. This Settlement Agreement is, will constitute, and may be pleaded as a complete bar to any Released Claim asserted against Releasees, whether against Plaintiff, any Participating Subdivision, or any other Subdivision, including any Non-Joining Subdivision.

2. **General Release.** In connection with the releases provided pursuant to this Settlement Agreement, Plaintiff, on behalf of itself and all other Releasors referenced in Section D.1, expressly waives, releases and forever discharges any and all provisions, rights and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle

of common law, which is similar, comparable or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release that, if known by him or her, would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those that he, she, or it knows or believes to be true with respect to the Released Claims, but Plaintiff, on behalf of itself and all other Releasors, hereby expressly waives and fully, finally and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims against the Releasees that may exist as of this date but which they do not know or suspect to exist, whether through ignorance, oversight, error, negligence or otherwise, and which, if known, would materially affect their decision to enter into this Settlement Agreement.

3. **Claim-Over and Non-Party Settlement.**

(a) Statement of Intent. It is the intent of the Parties that:

- (1) The Remediation Payment and Litigation Cost Payments made under this Agreement shall be the sole payments made by the Releasees to the Releasors involving, arising out of, or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee);
- (2) Claims by Releasors against non-Parties should not result in additional payments by Releasees, whether through contribution, indemnification or any other means; and
- (3) The Settlement effects a good faith “release and covenant not to sue” within the meaning of Florida Statute § 768.31(5) and meets the requirements of the Uniform Contribution Among Joint Tortfeasors Act and any similar state law or doctrine, including, but not limited to, Fla. Stat. § 768.31(5), that reduces or discharges a released party’s liability to any other parties, such that Releasees are discharged from all liability for contribution to any other alleged tortfeasor in the Florida AG Action and in any other Action, whenever filed.

- (4) The provisions of this Section D.3 are intended to be implemented consistent with these principles. This Agreement and the releases and dismissals provided for herein are made in good faith.

(b) No Releasee shall seek to recover for amounts paid under this Agreement based on indemnification, contribution, or any other theory, from a manufacturer, pharmacy, hospital, pharmacy benefit manager, health insurer, third-party vendor, trade association, distributor, or health care practitioner; *provided* that a Releasee shall be relieved of this prohibition with respect to any entity that asserts a Claim-Over against it. For the avoidance of doubt, nothing herein shall prohibit a Releasee from recovering amounts owed pursuant to insurance contracts.

(c) To the extent that, on or after the Effective Date of the Agreement, any Releasor settles any Claims arising out of or related to Covered Conduct (or conduct that would be Covered Conduct if engaged in by a Releasee) (“Non-Party Covered Conduct Claims”) it may have against any entity that is not a Releasee (a “Non-Released Entity”) that is, as of the Effective Date of the Agreement, a defendant in the Florida AG Action or any other Action and provides a release to such Non-Released Entity (a “Non-Party Settlement”), including in any bankruptcy case or through any plan of reorganization (whether individually or as a class of creditors), the Releasor will seek to include (or in the case of a Non-Party Settlement made in connection with a bankruptcy case, will cause the debtor to include), unless prohibited from doing so under applicable law, in the Non-Party Settlement a prohibition on seeking contribution or indemnity of any kind from Releasees substantially equivalent to that required from Endo in subsection D.3(b) (except limited to such claims against Releasees), or a release from such Non-Released Entity in favor of the Releasees (in a form equivalent to the releases contained in this Agreement) of any Claim-Over. The obligation to seek to obtain the prohibition and/or release required by this subsection is a material term of this Agreement.

(d) Claim-Over. In the event that any Releasor obtains a judgment with respect to a Non-Party Covered Conduct Claim against a Non-Released Entity that does not contain a prohibition like that in subsection D.3(b), or any Releasor files a Non-Party Covered Conduct Claim against a Non-Released Entity in bankruptcy or a Releasor is prevented for any reason from obtaining a prohibition/release in a Non-Party Settlement as provided in subsection D.3(c), and such Non-Released Entity asserts a Claim-Over against a Releasee, Endo and that Releasor shall meet and confer concerning any additional appropriate means by which to ensure that Releasees are not required to make any payment with respect to Covered Conduct (beyond the amounts that will already have been paid by Endo under this Settlement Agreement).

(e) In no event shall a Releasor be required to reduce the amount of a settlement or judgment against a Non-Released Entity in order to prevent additional payments by Releasees, whether through contribution, indemnification, or any other means.

4. **Cooperation.** Releasors, including Plaintiff and Participating Subdivisions, agree that they will not publicly or privately encourage any other Releasor to bring or maintain any

Released Claim. Plaintiff further agrees that it will cooperate in good faith with the Releasees to secure the prompt dismissal of any and all Released Claims.

E. Cessation of Litigation Activities. It is the Parties' intent that all litigation activities in the Florida AG Action relating to Released Claims against the Releasees shall immediately cease as of the Execution Date. Within seven (7) days after the Execution Date, Plaintiff agrees to take all steps reasonably necessary to implement the prompt cessation of such litigation activities, including by, for example, jointly requesting a severance of Endo from any trial in the Florida AG Action and/or a stay of further proceedings against Endo pending the implementation of this Settlement.

F. Entry of Consent Judgment Providing for Dismissal of All Claims Against Endo in the Florida AG Action with Prejudice. As soon as practicable following the Effective Date of the Agreement, Plaintiff shall file in the Court a Consent Judgment substantially in the form of Exhibit H, including a dismissal of the Florida AG Action with prejudice. Notwithstanding the foregoing, the Consent Judgment shall provide that the Court shall retain jurisdiction for purposes of enforcing compliance with the injunctive terms set forth in Exhibit E. The parties shall confer and agree as to the final form and time of filing prior to filing of the Consent Judgment.

G. No Admission of Liability. The Settling Parties intend the Settlement as described herein to be a final and complete resolution of all disputes between Endo and Plaintiff and between Endo and all Releasees. Endo is entering into this Settlement Agreement solely for the purposes of settlement, to resolve the Florida AG Action and all Actions and Released Claims and thereby avoid significant expense, inconvenience and uncertainty. Endo denies the allegations in the Florida AG Action and the other Actions and denies any civil or criminal liability in the Florida AG Action and the other Actions. Nothing contained herein may be taken as or deemed to be an admission or concession by Endo of: (i) any violation of any law, regulation, or ordinance; (ii)

any fault, liability, or wrongdoing; (iii) the strength or weakness of any Claim or defense or allegation made in the Florida AG Action, in any other Action, or in any other past, present or future proceeding relating to any Covered Conduct or any Product; or (iv) any other matter of fact or law. Nothing in this Settlement Agreement shall be construed or used to prohibit any Releasee from engaging in the manufacture, marketing, licensing, distribution or sale of branded or generic opioid medications or any other Product in accordance with applicable laws and regulations.

H. Miscellaneous Provisions.

1. **Use of Agreement as Evidence.** Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement: (i) is or may be deemed to be or may be used as an admission or evidence relating to any matter of fact or law alleged in the Florida AG Action or the other Actions, the strength or weakness of any claim or defense or allegation made in those cases, or any wrongdoing, fault, or liability of any Releasees; or (ii) is or may be deemed to be or may be used as an admission or evidence relating to any liability, fault or omission of Releasees in any civil, criminal or administrative proceeding in any court, administrative agency or other tribunal. Neither this Agreement nor any act performed or document executed pursuant to or in furtherance of this Agreement shall be admissible in any proceeding for any purpose, except to enforce the terms of the Settlement, and except that Releasees may file this Agreement in any action in order to support a defense or counterclaim based on principles of *res judicata*, collateral estoppel, release, good-faith settlement, judgment bar or reduction or any other theory of claim preclusion or issue preclusion or similar defense or counterclaim or to support a claim for contribution and/or indemnification.

2. **Voluntary Settlement.** This Settlement Agreement was negotiated in good faith and at arm's-length over several weeks, and the exchange of the Remediation Payment and

Litigation Costs Payment for the releases set forth herein is agreed to represent appropriate and fair consideration.

3. **Authorization to Enter Settlement Agreement.** Each party specifically represents and warrants that this Settlement Agreement constitutes a legal, valid and binding obligation of such Party. Each signatory to this Settlement Agreement on behalf of a Party specifically represents and warrants that he or she has full authority to enter into this Settlement Agreement on behalf of such Party. Plaintiff specifically represents and warrants that it has concluded that the terms of this Settlement Agreement are fair, reasonable, adequate and in the public interest, and that it has satisfied all conditions and taken all actions required by law in order to validly enter into this Settlement Agreement. Plaintiff specifically represents and warrants that, other than the Claims asserted in the Florida AG Action and the other Actions (whether filed previously or in the future), it has no interest (financial or otherwise) in any other Claim against any Releasee related to the Covered Conduct. In addition, Plaintiff specifically represents and warrants that (i) it is the owner and holder of the Claims asserted in the Florida AG Action; (ii) it has not sold, assigned or otherwise transferred the Claims asserted in the Florida AG Action, or any portion thereof or rights related thereto, to any third party; and (iii) it believes in good faith that it has the power and authority to bind all persons and entities with an interest in the Florida AG Action and all Subdivisions.

4. **Representation With Respect to Participation Rate.** The State of Florida represents and warrants for itself that it has a good-faith belief that all Litigating Subdivisions and all Principal Subdivisions will become Participating Subdivisions. The State acknowledges the materiality of the foregoing representation and warranty. State Outside Litigation Counsel, in good faith, believe this is a fair Settlement. Therefore, State Outside Litigation Counsel will, in their best efforts, recommend this Settlement to all Subdivisions within Florida.

5. **Dispute Resolution.** If Plaintiff believes Endo is not in compliance with any term of this Settlement Agreement, then Plaintiff shall (i) provide written notice to Endo specifying the reason(s) why Plaintiff believes Endo is not in compliance with the Settlement Agreement; and (ii) allow Endo at least thirty (30) days to attempt to cure such alleged non-compliance (the “Cure Period”). In the event the alleged non-compliance is cured within the Cure Period, Endo shall not have any liability for such alleged non-compliance. The State may not commence a proceeding to enforce compliance with this Agreement before the expiration of the Cure Period.

6. **No Third-Party Beneficiaries.** Except as to Releasees, nothing in this Settlement Agreement is intended to or shall confer upon any third party any legal or equitable right, benefit or remedy of any nature whatsoever.

7. **Notices.** All notices under this Agreement shall be in writing and delivered to the persons specified in this paragraph (“Notice Designees”) via: (i) e-mail; and (ii) either hand delivery or registered or certified mail, return receipt requested, postage pre-paid.

Notices to Plaintiff shall be delivered to:

Attorney General
Florida State Capitol, PL-01
Tallahassee FL 32399-1050

and

David C. Frederick
Kellogg, Hansen, Todd, Figel & Frederick P.L.L.C.
1615 M Street, NW
Washington D.C. 20036
dfrederick@kellogghansen.com

Notices to Endo shall be delivered to:

Geoffrey M. Wyatt
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue N.W.

Washington, D.C. 20005
geoffrey.wyatt@skadden.com

and

Matthew J. Maletta
Executive Vice President and Chief Legal Officer
Endo
1400 Atwater Drive
Malvern, Pennsylvania 19355
maletta.matthew@endo.com

8. **Taxes.** Each of the Parties acknowledges, agrees and understands that it is its intention that, for purposes of Section 162(f) of the Internal Revenue Code, the Remediation Payment by Endo constitutes restitution for damage or harm allegedly caused by the potential violation of a law and/or is an amount paid to come into compliance with the law. The Parties acknowledge, agree and understand that only the Litigation Costs Payments represent reimbursement to Plaintiff or any other person or entity for the costs of any investigation or litigation, that no portion of the Remediation Payment represents reimbursement to Plaintiff or any other person or entity for the costs of any investigation or litigation, and no portion of the Remediation Payment represents or should properly be characterized as the payment of fines, penalties or other punitive assessments. Plaintiff acknowledges, agrees and understands that Endo intends to allocate the cost of the Remediation Payment among the Releasees using a reasonable basis. If requested by Endo, Plaintiff shall complete and file Form 1098-F with the Internal Revenue Service, identifying the Remediation Payment as remediation/restitution amounts, and shall furnish Copy B of such Form 1098-F to Endo. Endo makes no warranty or representation to Plaintiff as to the tax consequences of the Remediation Payment or the Litigation Costs Payments or any portion thereof.

9. **Binding Agreement.** This Agreement shall be binding upon, and inure to the benefit of, the successors and assigns of the Parties hereto.

10. **Choice of Law.** Any dispute arising from or in connection with this Settlement Agreement shall be governed by Florida law without regard to its choice-of-law provisions.

11. **Jurisdiction.** The Parties agree to submit and consent to the jurisdiction of the Court for the resolution of any disputes arising under the Settlement Agreement.

12. **No Conflict Intended.** The headings used in this Agreement are intended for the convenience of the reader only and shall not affect the meaning or interpretation of this Agreement. The definitions contained in this Agreement or any Exhibit hereto are applicable to the singular as well as the plural forms of such terms.

13. **No Party Deemed to be the Drafter.** None of the Parties hereto shall be deemed to be the drafter of this Agreement or any provision hereof for the purpose of any statute, case law or rule of interpretation or construction that would or might cause any provision to be construed against the drafter hereof.

14. **Amendment; Waiver.** This Agreement shall not be modified in any respect except by a writing executed by all the Parties hereto, and the waiver of any rights conferred hereunder shall be effective only if made by written instrument of the waiving Party. The waiver by any Party of any breach of this Agreement shall not be deemed or construed as a waiver of any other breach, whether prior, subsequent or contemporaneous.

15. **Execution in Counterparts.** This Agreement may be executed in one or more counterparts. All executed counterparts and each of them shall be deemed to be one and the same instrument.

16. **Severability.** In the event any one or more provisions of this Settlement Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provision of this Settlement Agreement.

17. **Statements to the Press.** Any press release or other public statement concerning this Settlement Agreement will describe it positively and will not disparage any other Party. No Party or attorney, agent, or representative of any Party shall state or suggest that this Settlement Agreement may be used to predict the value of any Claim or any future settlement agreement in any action or proceeding.

18. **Integrated Agreement.** This Agreement constitutes the entire agreement between the Settling Parties and no representations, warranties or inducements have been made to any Party concerning this Agreement other than the representations, warranties and covenants contained and memorialized herein.

19. **Bankruptcy.** The following provisions shall apply if, (i) within ninety (90) days of Endo's payment pursuant to Section C.1(a) above, a case is commenced with respect to Endo under the Bankruptcy Code, and (ii) a court of competent jurisdiction enters a final order determining such payment to be an avoidable preference under Section 547 of the Bankruptcy Code, and (iii) pursuant to such final order such payment is returned to Endo:

(a) this Agreement, including all releases and covenants not to sue with respect to the Released Claims contained in this Agreement, shall immediately and automatically be deemed null and void as to Endo; and

(b) the State and Subdivisions may assert any and all Released Claims against Endo in its bankruptcy case and seek to exercise all rights provided under the federal Bankruptcy Code (or other applicable bankruptcy or non-bankruptcy law) with respect to their Claims against Endo.

20. **Most Favored Nations.** If, after execution of this Agreement, there is a collective resolution—through settlement, bankruptcy or other mechanism—of substantially all claims

against Endo brought by states, counties, and municipalities (a "Global Resolution") under which, but for this Agreement, the Florida allocation would be greater than the sum of the Remediation Payment and Litigation Cost Payments on a net present value basis, Endo shall pay the difference between the sum of the Remediation Payment and Litigation Cost Payments and the amount that would have been allocated to Florida under the terms and in accordance with any such Global Resolution. Additionally, if at any time within the ten months following the Execution Date Endo enters into a settlement with the attorney general of any state with a smaller population than Florida for a total settlement amount that exceeds \$65,000,000, Endo shall pay the excess amount to Florida.

IN WITNESS WHEREOF, the Parties hereto, through their fully authorized representatives, have executed this Agreement as of the dates set forth below.

ENDO HEALTH SOLUTIONS INC.

By: 

Name: Blaise Coleman
President and CEO

Date: 01/15/2022

ENDO PHARMACEUTICALS INC.

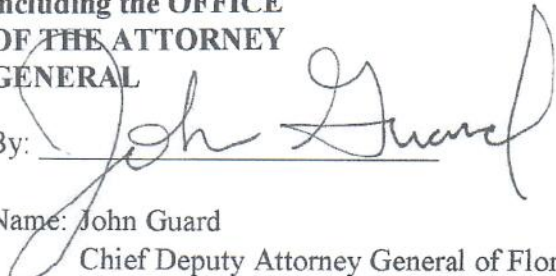
By: 

Name: Blaise Coleman
President and CEO

Date: 01/15/2022

PLAINTIFF

**STATE OF FLORIDA,
including the OFFICE
OF THE ATTORNEY
GENERAL**

By: 

Name: John Guard

Chief Deputy Attorney General of Florida
Pursuant to the authority delegated to him by
Ashley Moody, Attorney General of Florida

Date: 1/14/22

STATE OUTSIDE LITIGATION COUNSEL

**Kellogg, Hansen, Todd, Figel & Frederick,
P.L.L.C.**

By: 

Name: David C. Frederick

Date: January 15, 2022

Drake Martin Law Firm, LLC

By: 

Name: Drake Martin

Date: 1-15-2022

Exhibit A

LITIGATING SUBDIVISIONS

Counties

Alachua County
Bay County
Bradford County
Brevard County
Broward County
Calhoun County
Clay County
County Commission of Monroe County
Dixie County
Escambia County
Gilchrist County
Gulf County
Hamilton County
Hernando County
Hillsborough County
Holmes County
Jackson County
Lake County
Lee County
Leon County
Levy County
Manatee County
Marion County
Miami-Dade County
Okaloosa County
Orange County
Osceola County
Palm Beach County
Pasco County
Pinellas County
Polk County
Putnam County
Santa Rosa County
Sarasota County
Seminole County
St. Johns County
St. Lucie County
Suwannee County

Taylor County
Union County
Volusia County
Walton County
Washington County

Cities

City of Apopka
City of Bradenton
City of Clearwater
City of Coconut Creek
City of Coral Gables
City of Coral Springs
City of Daytona Beach
City of Deerfield Beach
City of Delray Beach
City of Deltona
City of Florida City
City of Fort Lauderdale
City of Fort Pierce
City of Hallandale Beach
City of Homestead
City of Jacksonville
City of Lauderhill
City of Lynn Haven
City of Miami
City of Miami Gardens
City of Miramar
City of New Port Richey
City of Niceville
City of North Miami
City of Ocala
City of Ocoee
City of Orlando
City of Ormond Beach
City of Oviedo
City of Palatka
City of Palm Bay
City of Palmetto
City of Panama City
City of Pembroke Pines
City of Pensacola
City of Pinellas Park

City of Pompano Beach
City of Port St. Lucie
City of Sanford
City of Sarasota
City of St. Augustine
City of St. Petersburg
City of Stuart
City of Sweetwater
City of Tallahassee
City of Tampa
Town of Eatonville

Hospital Districts

Halifax Hospital Medical Center
Lee Memorial Health System
North Broward Hospital District
Sarasota County Public Hospital District
West Volusia Hospital Authority

School Board

School Board of Miami-Dade County

Exhibit B

<u>County</u>	<u>Principal Subdivisions</u>	<u>Regional % by County for Abatement Fund</u>	<u>City/County Fund % (Principal Subdivisions Only)</u>
Alachua		1.24106016444867%	
	Alachua County		0.846347404896564%
	Alachua		0.013113332456932%
	Gainesville		0.381597611347118%
Baker		0.19317380413017%	
	Baker County		0.193173804130173%
Bay		0.83965637331199%	
	Bay County		0.539446037057239%
	Callaway		0.024953825526948%
	Lynn Haven		0.039205632014689%
	Panama City		0.155153855595736%
	Panama City Beach		0.080897023117378%
Bradford		0.18948420408137%	
	Bradford County		0.189484204081366%
Brevard		3.87879918044396%	
	Brevard County		2.387076812679440%
	Cape Canaveral		0.045560750208993%
	Cocoa		0.149245411423089%
	Cocoa Beach		0.084363286155357%
	Melbourne		0.383104682233196%
	Palm Bay		0.404817397481049%
	Rockledge		0.096603243797586%
	Satellite Beach		0.035975416223927%
	Titusville		0.240056418923581%
	West Melbourne		0.051997577065795%
Broward		9.05796267257777%	
	Broward County		4.062623697836280%
	Coconut Creek		0.101131719448042%
	Cooper City		0.073935445072532%
	Coral Springs		0.323406517663960%
	Dania Beach		0.017807041180440%
	Davie		0.266922227152987%
	Deerfield Beach		0.202423224724969%
	Fort Lauderdale		0.830581264530524%
	Hallandale Beach		0.154950491813518%
	Hollywood		0.520164608455721%
	Lauderdale Lakes		0.062625150434726%
	Lauderhill		0.144382838130419%
	Lighthouse Point		0.029131861802689%
	Margate		0.143683775129045%
	Miramar		0.279280208418825%
	North Lauderdale		0.066069624496039%

	Oakland Park		0.100430840698613%
	Parkland		0.045804060448432%
	Pembroke Pines		0.462832363602822%
	Plantation		0.213918725664437%
	Pompano Beach		0.335472163492860%
	Sunrise		0.286071106146452%
	Tamarac		0.134492458472026%
	Weston		0.138637811282768%
	West Park		0.029553115351569%
	Wilton Manors		0.031630331127078%
Calhoun		0.04712774078090%	
	Calhoun County		0.047127740780902%
Charlotte		0.73734623337592%	
	Charlotte County		0.690225755587238%
	Punta Gorda		0.047120477788680%
Citrus		0.96964577660634%	
	Citrus County		0.969645776606338%
Clay		1.19342946145639%	
	Clay County		1.193429461456390%
Collier		1.55133337642709%	
	Collier County		1.354822227370880%
	Marco Island		0.062094952002516%
	Naples		0.134416197053695%
Columbia		0.44678115079207%	
	Columbia County		0.342123248620213%
	Lake City		0.104659717919908%
DeSoto		0.11364040780249%	
	DeSoto County		0.113640407802487%
Dixie		0.10374458089993%	
	Dixie County		0.103744580899928%
Duval		5.43497515693510%	
	Jacksonville		5.295636466902910%
	Atlantic Beach		0.038891507601085%
	Jacksonville Beach		0.100447182431112%
Escambia		1.34163444924367%	
	Escambia County		1.010997622822650%
	Pensacola		0.330636826421023%
Flagler		0.38986471224388%	
	Flagler County		0.305009358365478%
	Palm Coast		0.084857169626457%
Franklin		0.04991128255001%	
	Franklin County		0.049911282550008%
Gadsden		0.12365607407671%	
	Gadsden County		0.123656074076710%
Gilchrist		0.06433376935497%	

	Gilchrist County		0.064333769354966%
Glades		0.04061283675771%	
	Glades County		0.040612836757713%
Gulf		0.05991423858784%	
	Gulf County		0.059914238587842%
Hamilton		0.04794119590977%	
	Hamilton County		0.047941195909773%
Hardee		0.06711004813185%	
	Hardee County		0.067110048131850%
Hendry		0.14446091529681%	
	Hendry County		0.144460915296806%
Hernando		1.51007594910967%	
	Hernando County		1.510075949109670%
Highlands		0.35718851023682%	
	Highlands County		0.293187022776017%
	Avon Park		0.025829016089707%
	Sebring		0.038172471371100%
Hillsborough		8.71098411365711%	
	Hillsborough County		6.523111204400210%
	Plant City		0.104218491142418%
	Tampa		1.975671881252980%
	Temple Terrace		0.107980721113446%
Holmes		0.08161242785125%	
	Holmes County		0.081612427851251%
Indian River		0.75307605878085%	
	Indian River County		0.654117789755259%
	Sebastian		0.038315915467486%
	Vero Beach		0.060642353558104%
Jackson		0.15893605879538%	
	Jackson County		0.158936058795375%
Jefferson		0.04082164778410%	
	Jefferson County		0.040821647784097%
Lafayette		0.03191177207568%	
	Lafayette County		0.031911772075683%
Lake		1.13921122451870%	
	Lake County		0.781548804039386%
	Clermont		0.075909163208877%
	Eustis		0.041929254097962%
	Fruitland Park		0.008381493024259%
	Groveland		0.026154034991644%
	Lady Lake		0.025048244425835%
	Leesburg		0.091339390184647%
	Minneola		0.016058475802978%
	Mount Dora		0.041021380070204%
	Tavares		0.031820984672908%

Lee		3.32537188335925%	
	Lee County		2.150386790650790%
	Bonita Springs		0.017374893143227%
	Cape Coral		0.714429677167259%
	Estero		0.012080171813344%
	Fort Myers		0.431100350584635%
Leon		0.89719924493933%	
	Leon County		0.471201146390692%
	Tallahassee		0.425998098548636%
Levy		0.25119240174806%	
	Levy County		0.251192401748057%
Liberty		0.01939945222513%	
	Liberty County		0.019399452225127%
Madison		0.06354028745471%	
	Madison County		0.063540287454706%
Manatee		2.72132334623483%	
	Manatee County		2.288523455470230%
	Bradenton		0.379930754632155%
	Palmetto		0.052869136132442%
Marion		1.70117616896044%	
	Marion County		1.332181664866660%
	Ocala		0.368994504093786%
Martin		0.86948729811605%	
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	Stuart		0.081223857767371%
Miami-Dade		5.23211978417292%	
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	Aventura		0.024619727884733%
	Coral Gables		0.071780152130635%
	Cutler Bay		0.009414653667847%
	Doral		0.013977628531358%
	Florida City		0.003929278792135%
	Hialeah		0.098015895784777%
	Hialeah Gardens		0.005452691410713%
	Homestead		0.024935668046393%
	Key Biscayne		0.013683477346364%
	Miami		0.292793005447970%
	Miami Beach		0.181409572478489%
	Miami Gardens		0.040683650931878%
	Miami Lakes		0.007836768607605%
	Miami Shores		0.006287935516250%
	Miami Springs		0.006169911892641%
	North Bay Village		0.005160355973775%
	North Miami		0.030379280716828%
	North Miami Beach		0.030391990953217%

	Opa-locka		0.007847663095938%
	Palmetto Bay		0.007404620570392%
	Pinecrest		0.008296152865650%
	South Miami		0.007833137111493%
	Sunny Isles Beach		0.007693324511219%
	Sweetwater		0.004116300841853%
Monroe		0.47638873858530%	
	Monroe County		0.388301353168081%
	Key West		0.088087385417219%
Nassau		0.47693346300195%	
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	Fernandina Beach		0.083159445194550%
Okaloosa		0.81921286595494%	
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	Crestview		0.070440130065665%
	Destin		0.014678507280787%
	Fort Walton Beach		0.077837487643835%
	Niceville		0.021745398712853%
Okeechobee		0.35349527869191%	
	Okeechobee County		0.353495278691906%
Orange		4.67102821454589%	
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	Apopka		0.097215150892295%
	Eatonville		0.008325204834538%
	Maitland		0.046728276208689%
	Ocoee		0.066599822928250%
	Orlando		1.160248481489900%
	Winter Garden		0.056264584996256%
	Winter Park		0.104903028159347%
Osceola		1.07345209294015%	
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	Kissimmee		0.162366006872243%
	St. Cloud		0.073837394677534%
Palm Beach		8.60159437205259%	
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	Belle Glade		0.020828445944817%
	Boca Raton		0.472069073961229%
	Boynton Beach		0.306498271771001%
	Delray Beach		0.351846579457498%
	Greenacres		0.076424835656644%
	Jupiter		0.125466374888059%
	Lake Worth		0.117146617297688%
	Lantana		0.024507151505292%
	North Palm Beach		0.044349646255964%
	Palm Beach Gardens		0.233675880256500%

	Palm Springs		0.038021764282493%
	Riviera Beach		0.163617057282493%
	Royal Palm Beach		0.049295743959188%
	Wellington		0.050183644758335%
	West Palm Beach		0.549265602541466%
Pasco		4.69208726049375%	
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	New Port Richey		0.149879107494464%
	Zephyrhills		0.112672614088898%
Pinellas		7.93488981677650%	
	Pinellas County		4.793536735851510%
	Clearwater		0.633863120195985%
	Dunedin		0.102440873796068%
	Gulfport		0.047893986460330%
	Largo		0.374192990776726%
	Oldsmar		0.039421706033295%
	Pinellas Park		0.251666311990547%
	Safety Harbor		0.038061710739714%
	Seminole		0.095248695748172%
	St. Petersburg		1.456593090134460%
	Tarpon Springs		0.101970595049690%
Polk		2.15048302529773%	
	Polk County		1.601687701502640%
	Auburndale		0.028636162583534%
	Bartow		0.043971970660417%
	Haines City		0.047984773863106%
	Lakeland		0.294875668467647%
	Lake Wales		0.036293172133642%
	Winter Haven		0.097033576086743%
Putnam		0.38489319406788%	
	Putnam County		0.337937949352250%
	Palatka		0.046955244715628%
Santa Rosa		0.70126731951283%	
	Santa Rosa County		0.654635277951081%
	Milton		0.046632041561747%
Sarasota		2.80504385757853%	
	Sarasota County		1.968804722107020%
	North Port		0.209611771276754%
	Sarasota		0.484279979634570%
	Venice		0.142347384560186%
Seminole		2.14114826454432%	
	Seminole County		1.508694164839420%
	Altamonte Springs		0.081305566429869%
	Casselberry		0.080034542791008%
	Lake Mary		0.079767627826847%

	Longwood		0.061710013414747%
	Oviedo		0.103130858057164%
	Sanford		0.164243490361646%
	Winter Springs		0.062262000823623%
St. Johns		0.71033334955402%	
	St. Johns County		0.663822963111989%
	St. Augustine		0.046510386442027%
St. Lucie		1.50662784355224%	
	St. Lucie County		0.956289133909966%
	Fort Pierce		0.159535255653695%
	Port St. Lucie		0.390803453988581%
Sumter		0.32639887045945%	
	Sumter County		0.312364953738371%
	Wildwood		0.014033916721079%
Suwannee		0.19101487969217%	
	Suwannee County		0.191014879692165%
Taylor		0.09218189728241%	
	Taylor County		0.092181897282406%
Union		0.06515630322411%	
	Union County		0.065156303224115%
Volusia		3.13032967447995%	
	Volusia County		1.784428217305820%
	Daytona Beach		0.447556475211771%
	DeBary		0.035283616214775%
	DeLand		0.098983689498367%
	Deltona		0.199329190038370%
	Edgewater		0.058042202342606%
	Holly Hill		0.031615805142634%
	New Smyrna Beach		0.104065968305755%
	Orange City		0.033562287058147%
	Ormond Beach		0.114644516477187%
	Port Orange		0.177596501561906%
	South Daytona		0.045221205322611%
Wakulla		0.11512932120801%	
	Wakulla County		0.115129321208010%
Walton		0.26855821615101%	
	Walton County		0.268558216151006%
Washington		0.12012444410873%	
	Washington County		0.120124444108733%

Exhibit C

List of Opioid Remediation Uses

Schedule A Core Strategies

Subdivisions shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies (“*Core Strategies*”).²

A. NALOXONE OR OTHER FDA-APPROVED MEDICATION TO REVERSE OPIOID OVERDOSES

1. Expand training for first responders, schools, community support groups and families; and
2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.

B. MEDICATION-ASSISTED TREATMENT (“MAT”) DISTRIBUTION AND OTHER OPIOID-RELATED TREATMENT

1. Increase distribution of MAT to individuals who are uninsured or whose insurance does not cover the needed service;
2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;
3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and
4. Provide treatment and recovery support services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication and with other support services.

² As used in this Schedule A, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

Schedule B Approved Uses

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

PART ONE: TREATMENT

A. TREAT OPIOID USE DISORDER (OUD)

Support treatment of Opioid Use Disorder (“*OUD*”) and any co-occurring Substance Use Disorder or Mental Health (“*SUD/MH*”) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:³

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (“*MAT*”) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (“*ASAM*”) continuum of care for OUD and any co-occurring SUD/MH conditions.
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (“*OTPs*”) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Provide treatment of trauma for individuals with OUD (*e.g.*, violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (*e.g.*, surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
7. Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.

³ As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs.

8. Provide training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
9. Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Offer fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Offer scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD/MH or mental health conditions, including, but not limited to, training, scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.
12. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (“*DATA 2000*”) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.
13. Disseminate web-based training curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service–Opioids web-based training curriculum and motivational interviewing.
14. Develop and disseminate new curricula, such as the American Academy of Addiction Psychiatry’s Provider Clinical Support Service for Medication–Assisted Treatment.

B. SUPPORT PEOPLE IN TREATMENT AND RECOVERY

Support people in recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, programs or strategies that:

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
2. Provide the full continuum of care with respect to treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.
3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.

4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.
5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
7. Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
8. Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.
9. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high-quality programs to help those in recovery.
10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.
11. Provide training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.
12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.
13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.
14. Create and/or support recovery high schools.
15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

**C. CONNECT PEOPLE WHO NEED HELP TO THE HELP THEY NEED
(CONNECTIONS TO CARE)**

Provide connections to care for people who have—or are at risk of developing—OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.
2. Fund SBIRT programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.
3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.
4. Purchase automated versions of SBIRT and support ongoing costs of the technology.
5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.
6. Provide training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.
7. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically appropriate follow-up care through a bridge clinic or similar approach.
8. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.
9. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.
10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.
11. Expand warm hand-off services to transition to recovery services.
12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.
13. Develop and support best practices on addressing OUD in the workplace.
14. Support assistance programs for health care providers with OUD.

15. Engage non-profits and the faith community as a system to support outreach for treatment.
16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

D. ADDRESS THE NEEDS OF CRIMINAL JUSTICE-INVOLVED PERSONS

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as:
 1. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (“*PAARP*”);
 2. Active outreach strategies such as the Drug Abuse Response Team (“*DART*”) model;
 3. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;
 4. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (“*LEAD*”) model;
 5. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or
 6. Co-responder and/or alternative responder models to address OUD-related 911 calls with greater SUD expertise.
2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions.
4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.

5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison or have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
6. Support critical time interventions (“CTI”), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
7. Provide training on best practices for addressing the needs of criminal justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

E. ADDRESS THE NEEDS OF PREGNANT OR PARENTING WOMEN AND THEIR FAMILIES, INCLUDING BABIES WITH NEONATAL ABSTINENCE SYNDROME

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (“NAS”), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, those that:

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women—or women who could become pregnant—who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Provide training for obstetricians or other healthcare personnel who work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; and expand long-term treatment and services for medical monitoring of NAS babies and their families.
5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with NAS get referred to appropriate services and receive a plan of safe care.

6. Provide child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.
7. Provide enhanced family support and child care services for parents with OUD and any co-occurring SUD/MH conditions.
8. Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.
9. Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including, but not limited to, parent skills training.
10. Provide support for Children's Services—Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO: PREVENTION

F. PREVENT OVER-PRESCRIBING AND ENSURE APPROPRIATE PRESCRIBING AND DISPENSING OF OPIOIDS

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding medical provider education and outreach regarding best prescribing practices for opioids consistent with the Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).
2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.
3. Continuing Medical Education (CME) on appropriate prescribing of opioids.
4. Providing Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.
5. Supporting enhancements or improvements to Prescription Drug Monitoring Programs ("PDMPs"), including, but not limited to, improvements that:
 1. Increase the number of prescribers using PDMPs;
 2. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or

3. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.
6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.
7. Increasing electronic prescribing to prevent diversion or forgery.
8. Educating dispensers on appropriate opioid dispensing.

G. PREVENT MISUSE OF OPIOIDS

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Funding media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Funding community anti-drug coalitions that engage in drug prevention efforts.
6. Supporting community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction—including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (“SAMHSA”).
7. Engaging non-profits and faith-based communities as systems to support prevention.
8. Funding evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
9. School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing misuse of prescription medications and seem likely to be effective in preventing the uptake and use of opioids.

10. Create or support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other prescription medications, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address mental health needs in young people that (when not properly addressed) increase the risk of opioid or another prescription medication misuse.

H. PREVENT OVERDOSE DEATHS AND OTHER HARMS (HARM REDUCTION)

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following:

1. Increased availability and distribution of naloxone and other medications that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities providing free naloxone to anyone in the community.
3. Training and education regarding naloxone and other medications that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enabling school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expanding, improving, or developing data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
7. Public education relating to immunity and Good Samaritan laws.
8. Educating first responders regarding the existence and operation of immunity and Good Samaritan laws.
9. Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care,

and the full range of harm reduction and treatment services provided by these programs.

10. Expanding access to testing and treatment for infectious diseases such as HIV and Hepatitis C resulting from intravenous opioid use.
11. Supporting mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Providing training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.
13. Supporting screening for fentanyl in routine clinical toxicology testing.

PART THREE: OTHER STRATEGIES

I. FIRST RESPONDERS

In addition to items in section C, D and H relating to first responders, support the following:

1. Education of law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other medications.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

J. LEADERSHIP, PLANNING AND COORDINATION

Support efforts to provide leadership, planning, coordination, facilitations, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following:

1. Statewide, regional, local or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
2. A dashboard to (a) share reports, recommendations, or plans to spend opioid settlement funds; (b) to show how opioid settlement funds have been spent; (c) to report program or strategy outcomes; or (d) to track, share or visualize key opioid- or health-related indicators and supports as identified through collaborative statewide, regional, local or community processes.

3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

K. TRAINING

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, those that:

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (*e.g.*, health care, primary care, Manufacturers, PDMPs, etc.).

L. RESEARCH

Support opioid abatement research that may include, but is not limited to, the following:

1. Monitoring, surveillance, data collection and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (*e.g.*, Hawaii HOPE and Dakota 24/7).

7. Epidemiological surveillance of OUD-related behaviors in critical populations, including individuals entering the criminal justice system, including, but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (“*ADAM*”) system.
8. Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
9. Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

Exhibit D

Subdivision Settlement Participation Form

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above ("*Governmental Entity*"), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated January 15, 2022 ("*Endo Settlement*"), and acting through the undersigned authorized official, hereby elects to participate in the Endo Settlement, release all Released Claims against all Releasees, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Endo Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the Endo Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within the later of 7 days following the entry of the Consent Judgment or 7 days of the Execution Date of this Subdivision Settlement Participation Form voluntarily dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Endo Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Endo Settlement and expressly agreeing to the releases provided for therein, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Agreement.
5. The Governmental Entity agrees to use any monies it receives through the Endo Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the Court for purposes limited to the Court's role as provided in, and for resolving disputes to the extent provided in, the Endo Settlement.

7. The Governmental Entity has the right to enforce those rights given to them in the Endo Settlement.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Endo Settlement, including, but not limited to, all provisions of Section D and E, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the Endo Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The Endo Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Endo Settlement.
10. In connection with the releases provided for in the Endo Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Endo Settlement.

11. Nothing herein is intended to modify in any way the terms of the Endo Settlement, to which the Governmental Entity hereby agrees. To the extent this Subdivision Settlement

Participation Form is interpreted differently from the Endo Settlement in any respect, the Endo Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

(the "Execution Date of this Subdivision Settlement Participation Form")

Exhibit E

QUALIFIED SETTLEMENT FUND ADMINISTRATOR

[TO BE ADDED]

Exhibit F

INJUNCTIVE RELIEF

I. Definitions Specific to this Exhibit

- A. “Cancer-Related Pain Care” means care that provides relief from pain resulting from a patient’s active cancer or cancer treatment as distinguished from treatment provided during remission.
- B. “Downstream Customer Data” shall mean transaction information that Endo collects relating to its direct customers’ sales to downstream customers, including chargeback data tied to Endo providing certain discounts, “867 data” and IQVIA data.
- C. “End-of-Life Care” means care for persons with a terminal illness or at high risk for dying in the near future in hospice care, hospitals, long-term care settings, or at home.
- D. “Endo” shall mean Endo Pharmaceuticals Inc. (“EPI”), Par Pharmaceutical, Inc. (“PPI”) and all of their parents, subsidiaries, predecessors, successors, joint ventures, divisions, assigns, officers, directors, agents, partners, principals, current employees, and affiliates acting on behalf of EPI or PPI in the United States.
- E. “Health Care Provider” shall mean any U.S.-based physician or other health care practitioner who is licensed to provide health care services and/or prescribe pharmaceutical products and any medical facility, practice, hospital, clinic or pharmacy.
- F. “Including but not limited to”, when followed by a list or examples, shall mean that list or examples are illustrative instances only and shall not be read to be restrictive.
- G. “In-Kind Support” shall mean payment or assistance in the form of goods, commodities, services, or anything else of value.
- H. “Lobby” and “Lobbying” shall have the same meaning as “lobbying activities” and “lobbying contacts” under the federal lobbying disclosure act, 2 U.S.C. § 1602 *et seq.*, and any analogous state or local provisions governing the person or entity being lobbied in that particular state or locality. As used in this document, “Lobby” and “Lobbying” include Lobbying directly or indirectly, through grantees or Third Parties.
- I. “Opioid(s)” shall mean all natural, semi-synthetic, or synthetic chemicals that interact with opioid receptors and act like opium. For the avoidance of doubt, the term Opioid shall not include the opioid antagonists naloxone or naltrexone.

- J. “Opioid Product(s)” shall mean all current and future medications containing Opioids approved by the U.S. Food & Drug Administration (“FDA”) and listed by the Drug Enforcement Administration (“DEA”) as Schedule II, III, or IV pursuant to the federal Controlled Substances Act (including but not limited to buprenorphine, codeine, fentanyl, hydrocodone, hydromorphone, meperidine, methadone, morphine, oxycodone, oxymorphone, tapentadol, and tramadol). The term “Opioid Products(s)” shall not include (i) methadone, buprenorphine, or other substances when used exclusively to treat opioid abuse, addiction, or overdose; or (ii) raw materials, immediate precursors, and/or active pharmaceutical ingredients (“APIs”) used in the manufacture or study of Opioids or Opioid Products, but only when such materials, immediate precursors, and/or APIs are sold or marketed exclusively to DEA-licensed manufacturers or DEA-licensed researchers.
- K. “OUD” shall mean opioid use disorder defined in the *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM–5)*, as updated or amended.
- L. “Promote,” “Promoting,” “Promotion,” and “Promotional” shall mean dissemination of information or other practices intended or reasonably anticipated to increase sales or prescriptions, or that attempts to influence prescribing practices of Health Care Providers in the United States.
- M. “Qualified Researcher” shall mean any researcher holding a faculty appointment or research position at an institution of higher education, a research organization, a nonprofit organization, or a government agency.
- N. “Suspicious Order” shall have the same meaning as provided by the Controlled Substances Act, 21 U.S.C. §§ 801-904, and the regulations promulgated thereunder and analogous Florida state laws and regulations.
- O. “Third Party” shall mean any person or entity other than Endo or a government entity.
- P. “Treatment of Pain” shall mean the provision of therapeutic modalities to alleviate or reduce pain.
- Q. “Unbranded Information” shall mean any information that does not identify a specific branded or generic product(s).

II. **Injunctive Relief**

A. **General Provisions**

- 1. Endo shall not make any written or oral statement about Opioids or any Opioid Product that is false, misleading, deceptive, unfair or unconscionable as defined under the law of Florida.
- 2. Endo shall not represent that Opioids or any Opioid Products have approvals, characteristics, uses, benefits, or qualities that they do not have.

B. Ban on Promotion

1. Endo shall not engage in Promotion of Opioids or Opioid Products, including but not limited to, by:
 - a. Employing or contracting with sales representatives or other persons to Promote Opioids or Opioid Products to Health Care Providers, patients, or persons involved in determining the Opioid Products included in formularies;
 - b. Using speakers, key opinion leaders, thought leaders, lecturers, and/or speaking events for Promotion of Opioids or Opioid Products;
 - c. Sponsoring, or otherwise providing financial support or In-Kind Support to medical education programs relating to Opioids or Opioid Products;
 - d. Creating, sponsoring, operating, controlling, or otherwise providing financial support or In-Kind Support to any website, network, and/or social or other media account for the Promotion of Opioids or Opioid Products;
 - e. Creating, sponsoring, distributing, or otherwise providing financial support or In-Kind Support for materials Promoting Opioids or Opioid Products, including but not limited to brochures, newsletters, pamphlets, journals, books, and guides;
 - f. Creating, sponsoring, or otherwise providing financial support or In-Kind Support for advertisements that Promote Opioids or Opioid Products, including but not limited to internet advertisements or similar content, and providing hyperlinks or otherwise directing internet traffic to advertisements; or
 - g. Engaging in Internet search engine optimization or other techniques designed to Promote Opioids or Opioid Products by improving rankings or making content appear among the top results in an Internet search or otherwise be more visible or more accessible to the public on the Internet.
2. Notwithstanding subsection II.B.1 directly above, Endo may:
 - a. Maintain a corporate website;
 - b. Maintain a website that contains principally the following content for any Opioid Product: the FDA-approved package insert, medication guide, and labeling, and a statement directing patients or caregivers to speak with a licensed Health Care Provider;

- c. Provide information or support the provision of information as expressly required by law or any state or federal government agency with jurisdiction in the state where the information is provided;
- d. Provide the following by mail, electronic mail, on or through Endo's corporate or product websites or through other electronic or digital methods: FDA-approved package insert, medication guide, approved labeling for Opioid Products or other prescribing information for Opioid Products that are published by a state or federal government agency with jurisdiction in the state where the information is provided;
- e. Provide scientific and/or medical information in response to an unsolicited request by a Health Care Provider consistent with the standards set forth in the FDA's Draft Guidance for Industry, *Responding to Unsolicited Requests for Off-Label Information About Prescription Drugs and Medical Devices* (Dec. 2011), as updated or amended by the FDA, and Guidance for Industry, *Good Reprint Practices for the Distribution of Medical Journal Articles and Medical or Scientific Reference Publications on Unapproved New Uses of Approved Drugs and Approved or Cleared Medical Devices* (Jan. 2009), as updated or amended by the FDA;
- f. Provide a response to any unsolicited question or request from a patient or caregiver, directing the patient or caregiver to the FDA-approved labeling or to speak with a licensed Health Care Provider without describing the safety or effectiveness of Opioids or any Opioid Product or naming any specific provider or healthcare institution; or directing the patient or caregiver to speak with their insurance carrier regarding coverage of an Opioid Product;
- g. Provide Health Care Economic Information, as defined at 21 U.S.C. § 352(a), to a payor, formulary committee, or other similar entity with knowledge and expertise in the area of health care economic analysis consistent with standards set forth in the FDA's Draft Questions and Answers Guidance for Industry and Review Staff, *Drug and Device Manufacturer Communications With Payors, Formulary Committees, and Similar Entities* (Jan. 2018), as updated or amended by the FDA;
- h. Provide information relating solely to the pricing of any Opioid Product;
- i. Provide information, through a product catalog or similar means, related to an Opioid or Opioid Product, including, without limitation, pricing information, weight, color, shape, packaging size, type, reference listed drug, National Drug Code ("NDC") label, and such other descriptive information (including information set forth in a

standard Healthcare Distribution Alliance Form or technical data sheet and the FDA approval letter) sufficient to identify the products available, to place an order for a product, and to allow the product to be loaded into a customer's inventory and ordering system or Third Party pricing compendia;

- j. Sponsor or provide financial support or In-Kind Support for an accredited or approved continuing medical education program required by either an FDA-approved Risk Evaluation and Mitigation Strategy ("REMS") program or other federal or state law or regulation applicable in the state where the program is provided through an independent Third Party, which shall be responsible for the continuing medical education program's content without the participation of Endo;
 - k. Provide information in connection with patient support information on co-pay assistance and managing pain in End-of-Life Care and/or Cancer-Related Pain Care relating to the use of Opioids for managing such pain, as long as the information identifies Endo as the source of the information; and
 - l. Provide rebates, discounts, and other customary pricing adjustments to DEA-registered customers and contracting intermediaries, such as Buying Groups, Group Purchasing Organizations, and Pharmacy Benefit Managers, except as prohibited by Section II.G.
3. Endo shall not engage in the following specific Promotional activity relating to any products indicated for the treatment of Opioid-induced side effects (for the avoidance of doubt, "Opioid-induced side effects" does not include addiction to Opioids or Opioid Products):
- a. Employing or contracting with sales representatives or other persons to Promote products indicated for the treatment of Opioid-induced side effects to Health Care Providers or patients;
 - b. Using speakers, key opinion leaders, thought leaders, lecturers, and/or speaking events to Promote products indicated for the treatment of Opioid-induced side effects;
 - c. Sponsoring, or otherwise providing financial support or In-Kind Support to medical education programs that Promote products indicated for the treatment of Opioid-induced side effects; or
 - d. Creating, sponsoring, or otherwise providing financial support or In-Kind Support for advertisements that Promote products indicated for the treatment of Opioid-induced side effects, including but not limited to internet advertisements or similar content, and providing hyperlinks or otherwise directing internet traffic to advertisements.

4. Notwithstanding subsection II.B.3 directly above, Endo may Promote products for the treatment of Opioid-induced side effects (i) so long as such Promotion does not associate the product with Opioids or Opioid Products, or (ii) where such Promotion concerns a product's indication to reverse overdoses and/or treat Opioid addiction. Nothing herein shall prevent Endo from linking to the FDA label associated with a product.
5. Treatment of Pain
 - a. Endo shall not, either through Endo or through Third Parties, engage in Promotion of the Treatment of Pain in a manner that encourages the utilization of Opioids or Opioid Products.
 - b. Endo shall not, either through Endo or through Third Parties, Promote the concept that pain is undertreated in a manner that encourages the utilization of Opioids or Opioid Products.
 - c. Endo shall not disseminate Unbranded Information, including Unbranded Information about a medical condition or disease state, that contains links to branded information about Opioid Products or otherwise Promotes Opioids or Opioid Products.
6. Notwithstanding subsection II.B.5 directly above, Endo may Promote or provide educational information about the Treatment of Pain with non-Opioid products or therapies, including Promoting or providing educational information about such non-Opioid products or therapies as alternatives to Opioid use, or as part of multimodal therapy which may include Opioid use, so long as such non-Opioid Promotional or educational information does not Promote Opioids or Opioid Products.

C. No Financial Reward or Discipline Based on Volume of Opioid Sales

1. Endo shall not provide financial incentives to its sales and marketing employees or discipline its sales and marketing employees based upon sales volume or sales quotas for Opioid Products. For the avoidance of doubt, this provision shall not prohibit financial incentives (*e.g.*, customary raises or bonuses) based on the performance of the overall company or business segment, as measured by EBITDA, revenue, cash flow, or other similar financial metrics.
2. Endo shall not offer or pay any remuneration (including any kickback, bribe, or rebate) directly or indirectly, to or from any person in return for the prescribing, sale, or use of an Opioid Product. For the avoidance of doubt, this provision shall not prohibit rebates or chargebacks to the extent permitted by other sections of this Consent Judgment.
3. Endo's compensation policies and procedures shall ensure compliance with this Consent Judgment.

D. Ban on Funding/Grants to Third Parties

1. Endo shall not, directly or indirectly, provide financial support or In-Kind Support to any Third Party for Promotion of or education about Opioids, Opioid Products, or products indicated for the treatment of Opioid-induced side effects (subject to subsections II.B.2, 4 and 6). For the avoidance of doubt, this provision does not prohibit support expressly allowed by this Consent Judgment or required by a federal or state agency.
2. Endo shall not create, sponsor, provide financial support or In-Kind Support to, or otherwise operate or control any medical society or patient advocacy group that primarily engages in conduct that Promotes Opioids or Opioid Products.
3. Endo shall not provide links to any Third Party website or materials or otherwise distribute materials created by a Third Party for the purpose of Promoting Opioids, Opioid Products, or products indicated for the treatment of Opioid-induced side effects (subject to subsections II.B.2, 4 and 6).
4. Endo shall not use, assist, or employ any Third Party to engage in any activity that Endo itself would be prohibited from engaging in pursuant to this Consent Judgment.
5. Endo shall not enter into any contract or agreement with any person or entity or otherwise attempt to influence any person or entity in such a manner that has the purpose or reasonably foreseeable effect of limiting the dissemination of information regarding the risks and side effects of using Opioids.
6. Endo shall not compensate or provide In-Kind Support to Health Care Providers (other than Endo employees) or organizations to advocate for formulary access or treatment guideline changes for the purpose of increasing access to any Opioid Product through third-party payers, *i.e.*, any entity, other than an individual, that pays or reimburses for the dispensing of prescription medicines, including but not limited to managed care organizations and pharmacy benefit managers. Nothing in this provision, however, prohibits Endo from using independent contractors who operate under the direction of Endo to provide information to a payor, formulary committee, or other similar entity as permitted in subsection II.B.2 provided that any such persons are bound by the terms of this Consent Judgment. Nor does this provision prohibit the payment of customary rebates or other pricing concessions to third-party payers, including state Medicaid programs, as part of an overall pricing agreement.
7. No officer or management-level employee of Endo may concurrently serve as a director, board member, employee, agent, or officer of any entity other than Endo International plc or a direct or indirect wholly-owned subsidiary thereof, that primarily engages in conduct that Promotes Opioids, Opioid

Products, or products indicated for the treatment of Opioid-related side effects. For the avoidance of doubt, nothing in this provision shall preclude an officer or management-level employee of Endo from concurrently serving on the board of a hospital.

8. Endo shall play no role in appointing persons to the board, or hiring persons to the staff, of any entity that primarily engages in conduct that Promotes Opioids, Opioid Products, or products indicated for the treatment of Opioid-induced side effects. For the avoidance of doubt, nothing in this paragraph shall prohibit Endo from fully and accurately responding to unsolicited requests or inquiries about a person's fitness to serve as an employee or board member at any such entity.
9. For the avoidance of doubt:
 - a. Nothing in this Section II.D shall be construed or used to prohibit Endo from providing financial or In-Kind Support to:
 - i. medical societies and patient advocate groups, who are principally involved in issues relating to (I) the treatment of OUD; (II) the prevention, education and treatment of opioid abuse, addiction, or overdose, including medication-assisted treatment for opioid addiction; and/or (III) rescue medications for opioid overdose; or
 - ii. universities, medical institutions, or hospitals, for the purpose of addressing, or providing education on, issues relating to (I) the treatment of OUD; (II) the prevention, education and treatment of opioid abuse, addiction, or overdose, including medication-assisted treatment for opioid addiction; and/or (III) rescue medications for opioid overdose.
 - b. The prohibitions in this Section II.D shall not apply to engagement with Third Parties based on activities related to (i) medications with an FDA-approved label that lists only the treatment of opioid abuse, addiction, dependence and/or overdose as their "indications and usage," to the extent they are sold to addiction treatment facilities; (ii) raw materials, APIs and/or immediate precursors used in the manufacture or study of Opioids or Opioid Products, but only when such materials, APIs and/or immediate precursors are sold or marketed exclusively to DEA registrants or sold outside the United States or its territories; or (iii) education warning about drug abuse or promoting prevention or treatment of drug misuse.
 - c. Endo will be in compliance with subsections II.D.2 and II.D.3 with respect to support of an individual Third Party to the extent that the State of Florida determines that such support does not increase the

risk of the inappropriate use of Opioids and that Endo has not acted for the purpose of increasing the use of Opioids.

E. Lobbying Restrictions

1. Endo shall not Lobby for the enactment of any federal, state, or local legislative or regulatory provision that:
 - a. encourages or requires Health Care Providers to prescribe Opioids or sanctions Health Care Providers for failing to prescribe Opioids or failing to treat pain with Opioids; or
 - b. pertains to the classification of any Opioid or Opioid Product as a scheduled drug under the Controlled Substances Act.
2. Endo shall not Lobby against the enactment of any federal, state or local legislative or regulatory provision that supports:
 - a. The use of non-pharmacologic therapy and/or non-Opioid pharmacologic therapy to treat chronic pain over or instead of Opioid use, including but not limited to third party payment or reimbursement for such therapies;
 - b. The use and/or prescription of immediate release Opioids instead of extended release Opioids when Opioid use is initiated, including but not limited to third party reimbursement or payment for such prescriptions;
 - c. The prescribing of the lowest effective dose of an Opioid, including but not limited to third party reimbursement or payment for such prescription;
 - d. The limitation of initial prescriptions of Opioids to treat acute pain;
 - e. The prescribing and other means of distribution of naloxone to minimize the risk of overdose, including but not limited to third party reimbursement or payment for naloxone;
 - f. The use of urine testing before starting Opioid use and annual urine testing when Opioids are prescribed, including but not limited to third party reimbursement or payment for such testing;
 - g. Evidence-based treatment (such as using medication-assisted treatment with buprenorphine or methadone in combination with behavioral therapies) for OUD, including but not limited to third party reimbursement or payment for such treatment; or
 - h. The implementation or use of Opioid drug disposal systems.

3. Endo shall not Lobby against the enactment of any federal, state or local legislative or regulatory provision expanding the operation or use of prescription drug monitoring programs (“PDMPs”), including but not limited to provisions requiring Health Care Providers to review PDMPs when Opioid use is initiated and with every prescription thereafter.
4. Notwithstanding the foregoing restrictions in subsections II.E.1-3, the following conduct is not restricted:
 - a. Lobbying against the enactment of any provision of any state, federal, municipal, or county taxes, fees, assessments, or other payments;
 - b. Challenging the enforcement of, or suing for declaratory or injunctive relief with respect to legislation, rules or regulations referred to in subsection II.E.1;
 - c. Communications made by Endo in response to a statute, rule, regulation, or order requiring such communication;
 - d. Communications by an Endo representative appearing before a federal or state legislative or administrative body, committee, or subcommittee as a result of a mandatory order or subpoena commanding that person to testify;
 - e. Responding, in a manner consistent with this Consent Judgment, to an unsolicited request for the input on the passage of legislation or the promulgation of any rule or regulation when such request is submitted in writing specifically to Endo from a government entity directly involved in the passage of that legislation or promulgation of that rule or regulation;
 - f. Lobbying for or against provisions of legislation or regulation that address other subjects in addition to those identified in subsections II.E.1-3, so long as Endo does not support specific portions of such legislation or regulation covered by subsection II.E.1 or oppose specific portions of such legislation or regulation covered by subsections II.E.2-3;
 - g. Communicating with a federal or state agency in response to a Federal Register or similar notice or an unsolicited federal or state legislative committee request for public comment on proposed legislation;
 - h. Responding to requests from the DEA, the FDA, or any other federal or state agency, and/or participating in FDA or other agency panels at the request of the agency; and

- i. Participating in meetings and other proceedings before the FDA, FDA advisory committee or other FDA committee in connection with the approval, modification of approval, or oversight of Endo's own products.

5. Endo shall provide notice of the prohibitions in Section II.E to all employees engaged in Lobbying; incorporate the prohibitions in Section II.E into trainings provided to Endo employees engaged in Lobbying; and certify that it has provided such notice and trainings to Endo employees engaged in Lobbying.

F. Ban on Certain High Dose Opioids

1. Endo shall not commence manufacturing, Promoting, or distributing any Opioid Product in strengths exceeding 30 milligrams of oxycodone per pill. For the avoidance of doubt, this restriction shall not apply to the manufacture or distribution of injectable Opioid Products used primarily in hospice, hospital, or other inpatient settings.

G. Ban on Prescription Savings Programs

1. Endo shall not directly or indirectly offer any discounts, coupons, rebates, or other methods which have the effect of reducing or eliminating a patient's co-payments or the cost of prescriptions (*e.g.*, free trial prescriptions) for any Opioid Product.
2. Endo shall not directly or indirectly provide financial support to any Third Party for discounts, coupons, rebates, or other methods which have the effect of reducing or eliminating a patient's co-payments or the cost of prescriptions (*e.g.*, free trial prescriptions) for any Opioid Product.

H. Monitoring and Reporting of Direct and Downstream Customers.

1. Endo shall operate an effective monitoring and reporting system in compliance with federal law, that shall include processes and procedures that:
 - a. Utilize all reasonably available transaction information to identify a Suspicious Order of an Opioid Product by a direct customer;
 - b. Utilize all reasonably available Downstream Customer Data to identify whether a downstream customer poses a material risk of diversion of an Opioid Product;
 - c. Utilize all information Endo receives that bears upon a direct customer's or a downstream customer's diversion activity or potential for diversion activity, including reports by Endo's

employees, customers, Health Care Providers, law enforcement, state, tribal, or federal agencies, or the media; and

- d. Upon request (unless otherwise required by law), report to the Florida Attorney General or State controlled substances regulatory agency any direct customer or downstream customer in Florida identified as part of the monitoring required by (a)-(c), above, and any customer relationship in Florida terminated by Endo relating to diversion or potential for diversion. These reports shall include the following information, to the extent known to Endo:
 - i. The identity of the downstream registrant and the direct customer(s) identified by Endo engaged in the controlled substance transaction(s), to include each registrant's name, address, business type, and DEA registration number;
 - ii. The dates of reported distribution of controlled substances by direct customers to the downstream registrant during the relevant time period;
 - iii. The drug name, drug family or NDC and dosage amounts reportedly distributed;
 - iv. The transaction or order number of the reported distribution; and
 - v. A brief narrative providing a description of the circumstances leading to Endo's conclusion that there is a risk of diversion.
2. Endo shall not provide to any direct customer an Opioid Product to fill an order identified as a Suspicious Order unless Endo investigates and finds that the order is not suspicious.
3. Upon request, Endo shall promptly provide reasonable assistance to law enforcement investigations of potential diversion and/or suspicious circumstances involving Opioid Products in the United States.
4. Endo agrees that it will refrain from providing an Opioid Product directly to a retail pharmacy or Health Care Provider.

I. Miscellaneous Terms

1. To the extent that any provision in this Consent Judgment conflicts with federal or relevant state law or regulation, the requirements of the law or regulation will prevail. To the extent that any provision in this Consent Judgment is in conflict with federal or relevant state law or regulation such

that Endo cannot comply with both the law or regulation and the provision of this Consent Judgment, Endo may comply with such law or regulation.

2. Endo will enter into this Consent Judgment solely for the purpose of settlement, and nothing contained therein may be taken as or construed to be an admission or concession of any violation of law, rule, or regulation, or of any other matter of fact or law, or of any liability or wrongdoing, all of which Endo expressly denies. No part of this Consent Judgment, including its statements and commitments, shall constitute evidence of any liability, fault, or wrongdoing by Endo. This Consent Judgment is not intended for use by any Third Party for any purpose, including submission to any court for any purpose.
3. For the avoidance of doubt, this Consent Judgment shall not be construed or used as a waiver or limitation of any defense otherwise available to Endo in any action, and nothing in this Consent Judgment shall be construed or used to prohibit Endo in any way whatsoever from taking legal or factual positions with regard to any Opioid Product(s) in litigation or other legal or administrative proceedings.
4. Nothing in this Consent Judgment shall be construed to limit or impair Endo's ability (a) to communicate its positions and respond to media inquiries concerning litigation, investigations, reports, or other documents or proceedings relating to Endo or its Opioid Products, or (b) to maintain a website explaining its litigation positions and responding to allegations concerning its Opioid Products.
5. Upon the request of the Attorney General of the State of Florida, Endo shall provide the Attorney General of the State of Florida with copies of the following, within 30 days of the request:
 - a. Any litigation or civil or criminal law enforcement subpoenas or Civil Investigative Demands relating to Endo's Opioid Product(s); and
 - b. Warning or untitled letters issued by the FDA regarding Endo's Opioid Product(s) and all correspondence between Endo and the FDA related to such letters.
6. The parties by stipulation may agree to a modification of this Consent Judgment; provided that the parties may jointly agree to a modification only by a written instrument signed by or on behalf of both Endo and the Attorney General of the State of Florida.

J. Compliance with State Laws and Regulations Relating to the Sale, Promotion, and Distribution of Any Opioid Product

1. Subject to subsection II.G.1 above, Endo shall comply with all applicable state laws and regulations that relate to the sale, Promotion, distribution, and disposal of Opioids or Opioid Products, including but not limited to:
 - a. Florida controlled substances laws, including all guidance issued by the applicable state regulator(s);
 - b. Florida consumer protection and unfair trade practices acts; and
 - c. Florida laws and regulations related to opioid prescribing, distribution, and disposal.

III. Clinical Data Transparency

A. Data to Be Shared

1. Endo shall continue to share truthful and balanced summaries of the results of all Endo-Sponsored Studies through its publicly available website (*see* <http://www.endo.com/endopharma/r-d/clinical-research>):
 - a. “Endo-Sponsored Studies” means pre-marketing clinical research and post-marketing clinical research that Endo “takes responsibility for and initiates” as “sponsor,” as “sponsor” is defined in 21 C.F.R. § 312.3(b), and that involves an intervention with human subjects with an Opioid Product.
 - b. The summaries may include redactions to protect personal identifying information, trade secret and confidential commercial information, and information that may provide a road map for defeating a product’s abuse-deterrent properties.
2. With respect to any Endo-Sponsored Studies relating to any new Endo Opioid Product or new indication for an existing Endo Opioid Product, Endo shall, within 30 days after regulatory approval or 18 months after study completion, whichever occurs later, make the following clinical data available through a third-party data archive that makes clinical data available to Qualified Researchers with a bona fide scientific research proposal:
 - a. Fully analyzable data set(s) (including individual de-identified participant-level data);
 - b. The clinical study report(s) redacted for commercial or personal identifying information;
 - c. The full protocol(s) (including the initial version, final version, and all amendments); and

- d. Full statistical analysis plan(s) (including all amendments and documentation for additional work processes) and analytic code.

B. Third-Party Data Archive

1. The third-party data archive referenced above shall have a panel of reviewers with independent review authority to determine whether the researchers are qualified, whether a research application seeks data for bona fide scientific research, and whether a research proposal is complete.
2. The panel may exclude research proposals with a commercial interest.
3. Endo shall not interfere with decisions made by the staff or reviewers associated with the third-party data archive.
4. Any data sharing agreement with a Qualified Researcher who receives shared data via the third-party data archive shall contain contact information for Endo's pharmacovigilance staff. Every agreement shall require the lead Qualified Researcher to inform Endo's pharmacovigilance staff within 24 hours of any determination that research findings could bear on the risk-benefit assessment regarding the product. The lead Qualified Researcher may also share findings bearing on the risk-benefit assessment regarding the product with regulatory authorities. Endo's pharmacovigilance staff shall take all necessary and appropriate steps upon receipt of such safety information, including but not limited to notifying the appropriate regulatory authorities or the public.
5. Endo shall bear all costs for making data and/or information available to the third-party data archive.

IV. Compliance

A. Compliance Duration

1. Sections II and III of this Exhibit shall be effective for 8 years from the date the Consent Judgment is entered.
2. Nothing in this Consent Judgment shall relieve Endo of its independent obligation to fully comply with the laws of the State of Florida after expiration of the 8-year period specified in this subsection.

B. Compliance Deadlines

1. Endo must be in full compliance with the provisions included in this Consent Judgment by the date it is entered. Nothing herein shall be construed as permitting Endo to avoid existing legal obligations.

V. Enforcement

- A. If the State believes that Endo is not in compliance with any term of this Consent Judgment, then the State shall:
 - 1. Provide written notice specifying the reason(s) why the State believes Endo is not in compliance with this Consent Judgment; and
 - 2. Allow Endo at least thirty (30) days to attempt to cure such alleged non-compliance (the “Cure Period”).
- B. In the event the alleged non-compliance is cured within the Cure Period, Endo shall not have any liability for such alleged non-compliance.
- C. The State may not commence a proceeding to enforce compliance with this Consent Judgment before the expiration of the Cure Period.
- D. All of the provisions of this Consent Judgment and any injunction entered pursuant to it shall apply to Endo, even if Endo subsequently files for or emerges from bankruptcy.
- E. This Consent Judgment will be enforceable in the Court where it is entered. In connection with any Chapter 11 Cases, if one is filed, this Agreement is also enforceable in the Bankruptcy Court. After emergence, discharge, or dismissal of any bankruptcy, this Consent Judgment will continue to be enforceable in Court where it is entered.

Exhibit G

<u>Litigating Subdivisions</u>	<u>Litigating %</u>
Alachua County	1.05816035129%
Bay County	0.67445165516%
Lynn Haven	0.04901751350%
Panama City	0.19398376765%
Bradford County	0.23690587434%
Brevard County	2.98448370497%
Palm Bay	0.50612989069%
Broward County	5.07936492081%
Coconut Creek	0.12644166587%
Coral Springs	0.40434454263%
Deerfield Beach	0.25308310671%
Fort Lauderdale	1.03844846403%
Hallandale Beach	0.19372950859%
Lauderhill	0.18051711842%
Miramar	0.34917486807%
Pembroke Pines	0.57866409659%
Pompano Beach	0.41942982316%
Calhoun County	0.05892226579%
Clay County	1.49210564228%
Dixie County	0.12970844069%
Jacksonville	6.62096027198%
Escambia County	1.26401710873%
Pensacola	0.41338436010%
Gilchrist County	0.08043439796%
Gulf County	0.07490880386%
Hamilton County	0.05993930201%
Hernando County	1.88799834150%
Hillsborough County	8.15563160424%
Tampa	2.47011763704%
Holmes County	0.10203733694%
Jackson County	0.19871253203%
Lake County	0.97714478977%
Lee County	2.68855794752%
Leon County	0.58912731073%
Tallahassee	0.53261142529%
Levy County	0.31405760629%
Manatee County	2.86126568069%
Bradenton	0.47501493885%
Palmetto	0.06610054375%
Marion County	1.66558296312%
Ocala	0.46134170415%
Stuart	0.10155152053%
Miami-Dade County	5.40366326457%

Coral Gables	0.08974436568%
Florida City	0.00491264817%
Homestead	0.03117624643%
Miami	0.36606947420%
Miami Gardens	0.05086543199%
North Miami	0.03798221649%
Sweetwater	0.00514647569%
Monroe County	0.48548042317%
Okaloosa County	0.79330868262%
Niceville	0.02718755751%
Orange County	3.91426593527%
Apopka	0.12154490889%
Eatonville	0.01041022990%
Ocoee	0.08326757029%
Orlando	1.45062055328%
Osceola County	1.04678452875%
Palm Beach County	7.45692091104%
Delray Beach	0.43990221742%
Pasco County	5.53810273982%
New Port Richey	0.18738892341%
Pinellas County	5.99320147610%
Clearwater	0.79249823188%
Pinellas Park	0.31465012070%
St. Petersburg	1.82113048025%
Polk County	2.00253750537%
Putnam County	0.42251271420%
Palatka	0.05870659963%
Santa Rosa County	0.81846897819%
Sarasota County	2.46153185360%
Sarasota	0.60547934620%
Seminole County	1.88627074203%
Oviedo	0.12894112318%
Sanford	0.20534823933%
St. Johns County	0.82995603906%
St. Augustine	0.05815040794%
St. Lucie County	1.19561688264%
Fort Pierce	0.19946168818%
Port St. Lucie	0.48860871761%
Suwannee County	0.23881962776%
Taylor County	0.11525199728%
Union County	0.08146278503%
Volusia County	2.23101196784%
Daytona Beach	0.55956515527%
Deltona	0.24921473680%
Ormond Beach	0.14333627199%

Walton County	0.33576951344%
Washington County	0.15018764545%

Exhibit H

IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, STATE OF FLORIDA
WEST PASCO CIVIL DIVISION

STATE OF FLORIDA, OFFICE OF THE
ATTORNEY GENERAL, DEPARTMENT
OF LEGAL AFFAIRS,

Plaintiff,

v.

No. 2018-CA-001438

PURDUE PHARMA L.P., et al.,

Defendants.

CONSENT JUDGMENT

Plaintiff, the State of Florida, Office of the Attorney General, Department of Legal Affairs (“Plaintiff”), brought the above-captioned action against Defendants Endo Health Solutions Inc. and Endo Pharmaceuticals Inc. (together, “Endo”), among others, alleging: that Endo violated Florida law by deceptively marketing opioid pain medications so as to overstate their efficacy and downplay the associated risk of addiction, which resulted in a public nuisance in Florida; that Endo violated the law by failing to monitor, report and not ship allegedly suspicious orders of opioid pain medications; and that Endo violated Fla. Stat. § 895.03(3) & (4) (the “Florida AG Action”). Plaintiff brought the Florida AG Action in its sovereign capacity as the people’s attorney in order to protect the public interest, including the interests of the State of Florida, its governmental subdivisions and its citizens.

In addition, numerous governmental entities in Florida, including counties, cities, hospital districts and school boards (“Subdivisions”) have brought separate lawsuits (“Actions”) in

various forums against Endo, among others. These Actions assert claims that arise out of or relate to alleged conduct that is substantially similar to or overlaps with the conduct alleged in the Florida AG Action (the “Covered Conduct”).

Endo denies the allegations in the Florida AG Action and other Actions and claims to have no liability whatsoever to Plaintiff or to any Subdivision or other governmental entity (whether such governmental entity has brought or is a party to another Action or not). Plaintiff and Endo (the “Parties”), by their counsel, have agreed to a resolution of the Florida AG Action (“Agreement,” attached to this judgment) and the entry of this Consent Judgment (including the injunctive terms incorporated herein) by the Court without trial or finding of admission or wrongdoing or liability of any kind. Furthermore, under the Agreement, and as effectuated in this Consent Judgment, the Florida AG is exercising its authority to act in the public interest and release its own Claims as well as those of all Subdivisions, whether asserted previously or in the future, that arise out of or relate to the Covered Conduct. Unless otherwise specified, capitalized terms used herein shall have the meanings specified in the Agreement.

NOW THEREFORE, without trial or adjudication of any issue of fact or law presented in the Florida AG Action or the other Actions, without this Consent Judgment constituting evidence against or admission by anyone with respect to any issue of fact or law, and upon the Parties’ consent, IT IS HEREBY ORDERED AS FOLLOWS:

I. PARTIES

1. Defendants Endo Health Solutions Inc. and Endo Pharmaceuticals Inc. are both Delaware corporations with their principal places of business in Pennsylvania.

2. Plaintiff has the authority to act in the public interest and on behalf of the people of Florida as the people’s attorney.

II. JURISDICTION

3. This Court has jurisdiction over the Parties and the subject matter of this action.

III. AGREEMENT

4. The Parties have agreed to resolution of the Florida AG Action under the terms of their Agreement, which is attached hereto as Exhibit A. This Consent Judgment summarizes and gives effect to those terms. In the event of a conflict between the terms of the Exhibits and this summary document, the terms of the Agreement shall govern.

IV. FINANCIAL TERMS

5. On or before the later of (a) seven (7) days after the entry of this Consent Judgment, or (b) seven (7) days after (i) the Qualified Settlement Fund contemplated by the Agreement has been established under the authority and jurisdiction of the Court, and (ii) Endo has received a W-9 and wire instructions for the Qualified Settlement Fund, Endo Pharmaceuticals Inc. shall pay the sum of \$65,000,000 into the Qualified Settlement Fund as specified in the Agreement, consisting of \$55,000,000 to be allocated for opioid remediation, \$5,000,000 to be available to reimburse State Litigation Costs, and \$5,000,000 to be available to reimburse Litigating Subdivision Litigation Costs.

V. INJUNCTIVE TERMS

6. The Parties have agreed that Endo shall be subject to the injunctive terms set forth in Exhibit __ to their Agreement. Those agreed injunctive terms are expressly incorporated into and are given full force and effect by this Consent Judgment, and Endo shall comply with the injunctive terms as of the entry of this Consent Judgment.

7. Compliance with injunctive terms may be enforced in this Court consistent with the terms specified in the injunctive provisions set forth in the Parties' Agreement.

VI. RELEASES AND DISMISSAL WITH PREJUDICE

8. Plaintiff and Endo have agreed to the Release of certain Claims as provided in Sections D and E of the Agreement. Such Releases are given in good faith within the meaning of Fla. Stat. § 768.31(5) and upon entry of this Consent Judgment shall be effective as to all Releasors.

9. Plaintiff's Claims against Endo are hereby DISMISSED WITH PREJUDICE, with each Party to bear its own costs except as specified in the Agreement.

VII. MISCELLANEOUS

10. This Court retains jurisdiction to enforce the terms of this Consent Judgment. The parties may jointly seek to modify the terms of this Consent Judgment, subject to the approval of this Court. This Consent Judgment may be modified only by order of this Court.

11. This Consent Judgment shall remain in full force and effect for eight years from the date it is entered, at which time Endo's obligations under the Consent Judgment shall expire.

12. Entry of this Consent Judgment is in the public interest.

IT IS SO ORDERED, ADJUDGED AND DECREED in Chambers at New Port Richey, Pasco County, Florida, this ___ day of January 2022.

Honorable Kimberly Sharpe Byrd
Circuit Court Judge

JOINTLY APPROVED AND
SUBMITTED FOR ENTRY:

FOR STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF
LEGAL AFFAIRS

ASHLEY MOODY
ATTORNEY GENERAL

By: _____
[to come]

Date: _____

[Additional approvals on subsequent pages]

OUTSIDE LITIGATION COUNSEL FOR STATE OF FLORIDA, OFFICE OF THE
ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS

By: _____
[to come]

Date: _____

DEFENDANT ENDO HEALTH SOLUTIONS INC.

By: _____
Matthew J. Maletta
Executive Vice President and Chief Legal Officer
Endo
1400 Atwater Drive
Malvern, Pennsylvania 19355

Date: _____

DEFENDANT ENDO PHARMACEUTICALS INC.

By: _____
Matthew J. Maletta
Executive Vice President and Chief Legal Officer
Endo
1400 Atwater Drive
Malvern, Pennsylvania 19355

Date: _____

COUNSEL FOR DEFENDANTS ENDO HEALTH SOLUTIONS INC. AND ENDO
PHARMACEUTICALS INC.

By:

Geoffrey M. Wyatt
Skadden, Arps, Slate, Meagher & Flom LLP
1440 New York Avenue, N.W.
Washington, D.C. 20005

Exhibit I

**FLORIDA OPIOID ALLOCATION AND
STATEWIDE RESPONSE
AGREEMENT**

BETWEEN

STATE OF FLORIDA DEPARTMENT OF LEGAL AFFAIRS,
OFFICE OF THE ATTORNEY GENERAL

And

CERTAIN LOCAL GOVERNMENTS IN THE STATE OF FLORIDA

This Florida Opioid Allocation and Statewide Response Agreement (the “Agreement”) is entered into between the State of Florida (“State”) and certain Local Governments (“Local Governments” and the State and Local Governments are jointly referred to as the “Parties” or individually as a “Party”). The Parties agree as follows:

Whereas, the people of the State and its communities have been harmed by misfeasance, nonfeasance and malfeasance committed by certain entities within the Pharmaceutical Supply Chain; and

Whereas, the State, through its Attorney General, and certain Local Governments, through their elected representatives and counsel, are separately engaged in litigation seeking to hold many of the same Pharmaceutical Supply Chain Participants accountable for the damage caused by their misfeasance, nonfeasance and malfeasance as the State; and

Whereas, certain of the Parties have separately sued Pharmaceutical Supply Chain participants for the harm caused to the citizens of both Parties and have collectively negotiated settlements with several Pharmaceutical Supply Chain Participants; and

Whereas, the Parties share a common desire to abate and alleviate the impacts of that misfeasance, nonfeasance and malfeasance throughout the State; and

Whereas, it is the intent of the State and its Local Governments to use the proceeds from any Settlements with Pharmaceutical Supply Chain Participants to increase the amount of funding presently spent on opioid and substance abuse education, treatment, prevention and other related programs and services, such as those identified in Exhibits “A” and “B,” and to ensure that the funds are expended in compliance with evolving evidence-based “best practices;” and

Whereas, the State and its Local Governments enter into this Agreement and agree to the allocation and use of the proceeds of any settlement described herein

Wherefore, the Parties each agree to as follows:

A. Definitions

As used in this Agreement:

1. “Approved Purpose(s)” shall mean forward-looking strategies, programming and services used to expand the availability of treatment for individuals impacted by substance use disorders, to: (a) develop, promote, and provide evidence-based substance use prevention strategies; (b) provide substance use avoidance and awareness education; (c) decrease the oversupply of licit and illicit opioids; and (d) support recovery from addiction. Approved Purposes shall include, but are not limited to, the opioid abatement strategies listed in Exhibits “A” and “B” which are incorporated herein by reference.
2. “Local Governments” shall mean all counties, cities, towns and villages located within the geographic boundaries of the State.
3. “Managing Entities” shall mean the corporations selected by and under contract with the Florida Department of Children and Families or its successor (“DCF”) to manage the daily operational delivery of behavioral health services through a coordinated system of care. The singular “Managing Entity” shall refer to a singular of the Managing Entities.
4. “County” shall mean a political subdivision of the state established pursuant to s. 1, Art. VIII of the State Constitution.
5. “Dependent Special District” shall mean a Special District meeting the requirements of Florida Statutes § 189.012(2).
6. “Municipalities” shall mean cities, towns, or villages located in a County within the State that either have: (a) a Population greater than 10,000 individuals; or (b) a Population equal to or less than 10,000 individuals and that has either (i) filed a lawsuit against one or more Pharmaceutical Supply Chain Participants; or (ii) executes a release in connection with a settlement with a Pharmaceutical Supply Chain participant. The singular “Municipality” shall refer to a singular city, town, or village within the definition of Municipalities.
7. “Negotiating Committee” shall mean a three-member group comprised by representatives of the following: (1) the State; and (2) two representatives of Local Governments of which one representative will be from a Municipality and one shall be from a County (collectively, “Members”) within the State. The State shall be represented by the Attorney General or her designee.
8. “Negotiation Class Metrics” shall mean those county and city settlement allocations which come from the official website of the Negotiation Class of counties and cities certified on September 11, 2019 by the U.S. District for the Northern District of Ohio in *In re National Prescription Opiate Litigation*, MDL No. 2804 (N.D. Ohio). The website is located at <https://allocationmap.iclaimsonline.com>.
9. “Opioid Funds” shall mean monetary amounts obtained through a Settlement.

10. “Opioid Related” shall have the same meaning and breadth as in the agreed Opioid Abatement Strategies attached hereto as Exhibits “A” or “B.”

11. “Parties” shall mean the State and Local Governments that execute this Agreement. The singular word “Party” shall mean either the State or Local Governments that executed this Agreement.

12. “PEC” shall mean the Plaintiffs’ Executive Committee of the National Prescription Opiate Multidistrict Litigation pending in the United States District Court for the Northern District of Ohio.

13. “Pharmaceutical Supply Chain” shall mean the entities, processes, and channels through which Controlled Substances are manufactured, marketed, promoted, distributed or dispensed.

14. “Pharmaceutical Supply Chain Participant” shall mean any entity that engages in, or has engaged in the manufacture, marketing, promotion, distribution or dispensing of an opioid analgesic.

15. “Population” shall refer to published U.S. Census Bureau population estimates as of July 1, 2019, released March 2020, and shall remain unchanged during the term of this Agreement. These estimates can currently be found at <https://www.census.gov>. *For purposes of Population under the definition of Qualified County, a County’s population shall be the greater of its population as of the July 1, 2019, estimates or its actual population, according to the official U.S. Census Bureau count, which was released by the U.S. Census Bureau in August 2021.*

16. “Qualified County” shall mean a charter or non-chartered County that has a Population of at least 300,000 individuals and: (a) has an opioid taskforce or other similar board, commission, council, or entity (including some existing sub-unit of a County’s government responsible for substance abuse prevention, treatment, and/or recovery) of which it is a member or it operates in connection with its municipalities or others on a local or regional basis; (b) has an abatement plan that has been either adopted or is being utilized to respond to the opioid epidemic; (c) is, as of December 31, 2021, either providing or is contracting with others to provide substance abuse prevention, recovery, and/or treatment services to its citizens; and (d) has or enters into an interlocal agreement with a majority of Municipalities (Majority is more than 50% of the Municipalities’ total Population) related to the expenditure of Opioid Funds. The Opioid Funds to be paid to a Qualified County will only include Opioid Funds for Municipalities whose claims are released by the Municipality or Opioid Funds for Municipalities whose claims are otherwise barred. For avoidance of doubt, the word “operate” in connection with opioid task force means to do at least one of the following activities: (1) gathers data about the nature, extent, and problems being faced in communities within that County; (2) receives and reports recommendations from other government and private entities about activities that should be undertaken to abate the opioid epidemic to a County; and/or (3) makes recommendations to a County and other public and private leaders about steps, actions, or plans that should be undertaken to abate the opioid epidemic. For avoidance of doubt, the Population calculation required by subsection (d) does not include Population in unincorporated areas.

17. “SAMHSA” shall mean the U.S. Department of Health & Human Services, Substance Abuse and Mental Health Services Administration.

18. “Settlement” shall mean the negotiated resolution of legal or equitable claims against a Pharmaceutical Supply Chain Participant when that resolution has been jointly entered into by the State and Local Governments or a settlement class as described in (B)(1) below.

19. “State” shall mean the State of Florida.

B. Terms

1. **Only Abatement** - Other than funds used for the Administrative Costs and Expense Fund as hereinafter described or to pay obligations to the United States arising out of Medicaid or other federal programs, all Opioid Funds shall be utilized for Approved Purposes. In order to accomplish this purpose, the State will either: (a) file a new action with Local Governments as Parties; or (b) add Local Governments to its existing action, sever any settling defendants. In either type of action, the State will seek entry of a consent judgment, consent order or other order binding judgment binding both the State and Local Governments to utilize Opioid Funds for Approved Purposes (“Order”) from the Circuit Court of the Sixth Judicial Circuit in and for Pasco County, West Pasco Division New Port Richey, Florida (the “Court”), except as herein provided. The Order may be part of a class action settlement or similar device. The Order shall provide for continuing jurisdiction by the Court to address non-performance by any party under the Order.

2. **Avoid Claw Back and Recoupment** - Both the State and Local Governments wish to maximize any Settlement and Opioid Funds. In addition to committing to only using funds for the Expense Funds, Administrative Costs and Approved Purposes, both Parties will agree to utilize a percentage of funds for the Core Strategies highlighted in Exhibit A. Exhibit A contains the programs and strategies prioritized by the U.S. Department of Justice and/or the U.S. Department of Health & Human Services (“Core Strategies”). The State is trying to obtain the United States’ agreement to limit or reduce the United States’ ability to recover or recoup monies from the State and Local Government in exchange for prioritization of funds to certain projects. If no agreement is reached with the United States, then there will be no requirement that a percentage be utilized for Core Strategies.

3. **No Benefit Unless Fully Participating** - Any Local Government that objects to or refuses to be included under the Order or refuses or fails to execute any of documents necessary to effectuate a Settlement shall not receive, directly or indirectly, any Opioid Funds and its portion of Opioid Funds shall be distributed to, and for the benefit of, the Local Governments. Funds that were a for a Municipality that does not join a Settlement will be distributed to the County where that Municipality is located. Funds that were for a County that does not join a Settlement will be distributed pro rata to Counties that join a Settlement. For avoidance of doubt, if a Local Government initially refuses to be included in or execute the documents necessary to effectuate a Settlement and subsequently effectuates such documents necessary to join a Settlement, then that Local Government will only lose those payments made under a Settlement while that Local Government was not a part of the Settlement. If a Local Government participates in a Settlement, that Local Government is thereby releasing the claims of its Dependent Special District claims, if any.

4. **Distribution Scheme** – If a Settlement has a National Settlement Administrator or similar entity, all Opioids Funds will initially go to the Administrator to be distributed. If a Settlement does not have a National Settlement Administrator or similar entity, all Opioid Funds will initially go to the State, and then be distributed by the State as they are received from the Defendants according to the following distribution scheme. The Opioid Funds will be divided into three funds after deducting any costs of the Expense Fund detailed below. Funds due the federal government, if any, pursuant to Section B-2, will be subtracted from only the State and Regional Funds below:

(a) City/County Fund- The city/county fund will receive 15% of all Opioid Funds to directly benefit all Counties and Municipalities. The amounts to be distributed to each County and Municipality shall be determined by the Negotiation Class Metrics or other metrics agreed upon, in writing, by a County and a Municipality, which are attached to this Agreement as Exhibit “C.” In the event that a Municipality has a Population less than 10,000 people and it does not execute a release or otherwise join a Settlement that Municipalities share under the Negotiation Class Metrics shall be reallocated to the County where that Municipality is located.

(b) Regional Fund- The regional fund will be subdivided into two parts.

(i) The State will annually calculate the share of each County within the State of the regional fund utilizing the sliding scale in paragraph 5 of the Agreement, and according to the Negotiation Class Metrics.

(ii) For Qualified Counties, the Qualified County’s share will be paid to the Qualified County and expended on Approved Purposes, including the Core Strategies identified in Exhibit A, if applicable.

(iii) For all other Counties, the State will appropriate the regional share for each County and pay that share through DCF to the Managing Entities providing service for that County. The Managing Entities will be required to expend the monies on Approved Purposes, including the Core Strategies as directed by the Opioid Abatement Task Force or Council. The Managing Entities shall expend monies from this Regional Fund on services for the Counties within the State that are non-Qualified Counties and to ensure that there are services in every County. To the greatest extent practicable, the Managing Entities shall endeavor to expend monies in each County or for citizens of a County in the amount of the share that a County would have received if it were a Qualified County.

(c) State Fund - The remainder of Opioid Funds will be expended by the State on Approved Purposes, including the provisions related to Core Strategies, if applicable.

(d) To the extent that Opioid Funds are not appropriated and expended in a year by the State, the State shall identify the investments where settlement funds will be deposited. Any gains, profits, or interest accrued from the deposit of the Opioid Funds to the extent that any funds are not appropriated and expended within a calendar year, shall be the sole property of the Party that was entitled to the initial amount.

(e) To the extent a County or Municipality wishes to pool, comingle, or otherwise transfer its share, in whole or part, of Opioid Funds to another County or Municipality, the comingling Municipalities may do so by written agreement. The comingling Municipalities shall provide a copy of that agreement to the State and any settlement administrator to ensure that monies are directed consistent with such agreement. The County or Municipality receiving any such Opioid Funds shall assume the responsibility for reporting how such Opioid Funds were utilized under this Agreement.

5. Regional Fund Sliding Scale- The Regional Fund shall be calculated by utilizing the following sliding scale of the Opioid Funds available in any year after deduction of Expenses and any funds due the federal government:

- A. Years 1-6: 40%
- B. Years 7-9: 35%
- C. Years 10-12: 34%
- D. Years 13-15: 33%
- E. Years 16-18: 30%

6. Opioid Abatement Taskforce or Council - The State will create an Opioid Abatement Taskforce or Council (sometimes hereinafter “Taskforce” or “Council”) to advise the Governor, the Legislature, DCF, and Local Governments on the priorities that should be addressed by expenditure of Opioid Funds and to review how monies have been spent and the results that have been achieved with Opioid Funds.

(a) Size - The Taskforce or Council shall have ten Members equally balanced between the State and the Local Government representatives.

(b) Appointments Local Governments - Two Municipality representatives will be appointed by or through Florida League of Cities. Two county representatives, one from a Qualified County and one from a county within the State that is not a Qualified County, will be appointed by or through the Florida Association of Counties. The final representative will alternate every two years between being a county representative (appointed by or through Florida Association of Counties) or a Municipality representative (appointed by or through the Florida League of Cities). One Municipality representative must be from a city of less than 50,000 people. One county representative must be from a county of less than 200,000 people and the other county representative must be from a county whose population exceeds 200,000 people.

(c) Appointments State -

- (i) The Governor shall appoint two Members.
- (ii) The Speaker of the House shall appoint one Member.

- (iii) The Senate President shall appoint one Member.
- (iv) The Attorney General or her designee shall be a Member.
- (d) Chair - The Attorney General or designee shall be the chair of the Taskforce or Council.
- (e) Term - Members will be appointed to serve a four-year term and shall be staggered to comply with Florida Statutes § 20.052(4)(c).
- (f) Support - DCF shall support the Taskforce or Council and the Taskforce or Council shall be administratively housed in DCF.
- (g) Meetings - The Taskforce or Council shall meet quarterly in person or virtually using communications media technology as defined in section 120.54(5)(b)(2), Florida Statutes.
- (h) Reporting - The Taskforce or Council shall provide and publish a report annually no later than November 30th or the first business day after November 30th, if November 30th falls on a weekend or is otherwise not a business day. The report shall contain information on how monies were spent the previous fiscal year by the State, each of the Qualified Counties, each of the Managing Entities, and each of the Local Governments. It shall also contain recommendations to the Governor, the Legislature, and Local Governments for priorities among the Approved Purposes or similar such uses for how monies should be spent the coming fiscal year to respond to the opioid epidemic. Prior to July 1st of each year, the State and each of the Local Governments shall provide information to DCF about how they intend to expend Opioid Funds in the upcoming fiscal year.
- (i) Accountability - The State and each of the Local Governments shall report its expenditures to DCF no later than August 31st for the previous fiscal year. The Taskforce or Council will set other data sets that need to be reported to DCF to demonstrate the effectiveness of expenditures on Approved Purposes. In setting those requirements, the Taskforce or Council shall consider the Reporting Templates, Deliverables, Performance Measures, and other already utilized and existing templates and forms required by DCF from Managing Entities and suggest that similar requirements be utilized by all Parties to this Agreement.
- (j) Conflict of Interest - All Members shall adhere to the rules, regulations and laws of Florida including, but not limited to, Florida Statute §112.311, concerning the disclosure of conflicts of interest and recusal from discussions or votes on conflicted matters.

7. **Administrative Costs**- The State may take no more than a 5% administrative fee from the State Fund and any Regional Fund that it administers for counties that are not Qualified Counties. Each Qualified County may take no more than a 5% administrative fee from its share of the Regional Funds. Municipalities and Counties may take no more than a 5% administrative fee from any funds that they receive or control from the City/County Fund.

8. **Negotiation of Non-Multistate Settlements** - If the State begins negotiations with a Pharmaceutical Supply Chain Participant that is separate and apart from a multi-state negotiation, the State shall include Local Governments that are a part of the Negotiating Committee in such negotiations. No Settlement shall be recommended or accepted without the affirmative votes of both the State and Local Government representatives of the Negotiating Committee.

9. **Negotiation of Multistate or Local Government Settlements** - To the extent practicable and allowed by other parties to a negotiation, both Parties agree to communicate with members of the Negotiation Committee regarding the terms of any other Pharmaceutical Supply Chain Participant Settlement.

10. **Program Requirements**- DCF and Local Governments desire to make the most efficient and effective use of the Opioid Funds. DCF and Local Governments will work to achieve that goal by ensuring the following requirements will be minimally met by any governmental entity or provider providing services pursuant to a contract or grant of Opioid Funds:

a. In either performing services under this Agreement or contracting with a provider to provide services with the Opioid Funds under this Agreement, the State and Local Governments shall be aware of and comply with all State and Federal laws, rules, Children and Families Operating Procedures (CFOPs), and similar regulations relating to the substance abuse and treatment services.

b. The State and Local Governments shall have and follow their existing policies and practices for accounting and auditing, including policies relating to whistleblowers and avoiding fraud, waste, and abuse. The State and Local Governments shall consider additional policies and practices recommended by the Opioid Abatement Taskforce or Council. c. In any award or grant to any provider, State and Local Governments shall ensure that each provider acknowledges its awareness of its obligations under law and shall audit, supervise, or review each provider's performance routinely, at least once every year.

d. In contracting with a provider, the State and Local Governments shall set performance measures in writing for a provider.

e. The State and Local Governments shall receive and report expenditures, service utilization data, demographic information, and national outcome measures in a similar fashion as required by the 42.U.S.C. s. 300x and 42 U.S.C. s. 300x-21.

f. The State and Local Governments, that implement evidenced based practice models will participate in fidelity monitoring as prescribed and completed by the originator of the model chosen..

g. The State and Local Governments shall ensure that each year, an evaluation of the procedures and activities undertaken to comply with the requirements of this Agreement are completed.

h. The State and Local Governments shall implement a monitoring process that will demonstrate oversight and corrective action in the case of non-compliance, for all providers that receive Opioid Funds. Monitoring shall include:

- (i) Oversight of the any contractual or grant requirements;
- (ii) Develop and utilize standardized monitoring tools;
- (iii) Provide DCF and the Opioid Abatement Taskforce or Council with access to the monitoring reports; and
- (iv) Develop and utilize the monitoring reports to create corrective action plans for providers, where necessary.

11. **Reporting and Records Requirements-** The State and Local Governments shall follow their existing reporting and records retention requirements along with considering any additional recommendations from the Opioid Abatement Taskforce or Council. Local Governments shall respond and provide documents to any reasonable requests from the State or Opioid Abatement Taskforce or Council for data or information about programs receiving Opioid Funds. The State and Local Governments shall ensure that any provider or sub-recipient of Opioid Funds at a minimum does the following:

(a) Any provider shall establish and maintain books, records and documents (including electronic storage media) sufficient to reflect all income and expenditures of Opioid Funds. Upon demand, at no additional cost to the State or Local Government, any provider will facilitate the duplication and transfer of any records or documents during the term that it receives any Opioid Funds and the required retention period for the State or Local Government. These records shall be made available at all reasonable times for inspection, review, copying, or audit by Federal, State, or other personnel duly authorized by the State or Local Government.

(b) Any provider shall retain and maintain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to the use of the Opioid Funds during the term of its receipt of Opioid Funds and retained for a period of six (6) years after its ceases to receives Opioid Funds or longer when required by law. In the event an audit is required by the State of Local Governments, records shall be retained for a minimum period of six (6) years after the audit report is issued or until resolution of any audit findings or litigation based on the terms of any award or contract.

(c) At all reasonable times for as long as records are maintained, persons duly authorized by State or Local Government auditors shall be allowed full access to and the right to examine any of the contracts and related records and documents, regardless of the form in which kept.

(d) A financial and compliance audit shall be performed annually and provided to the State.

(e) All providers shall comply and cooperate immediately with any inspections, reviews, investigations, or audits deemed necessary by The Office of the Inspector General (section 20.055, F.S.) or the State.

(f) No record may be withheld nor may any provider attempt to limit the scope of any of the foregoing inspections, reviews, copying, transfers or audits based on any claim that any record is exempt from public inspection or is confidential, proprietary or trade secret in nature; provided, however, that this provision does not limit any exemption to public inspection or copying to any such record.

12. **Expense Fund** - The Parties agree that in any negotiation every effort shall be made to cause Pharmaceutical Supply Chain Participants to pay costs of litigation, including attorneys' fees, in addition to any agreed to Opioid Funds in the Settlement. To the extent that a fund sufficient to pay the full contingent fees of Local Governments is not created as part of a Settlement by a Pharmaceutical Supply Chain Participant, the Parties agree that an additional expense fund for attorneys who represent Local Governments (herein "Expense Fund") shall be created out of the City/County fund for the purpose of paying the hard costs of a litigating Local Government and then paying attorneys' fees.

(a) The Source of Funds for the Expense Fund- Money for the Expense Fund shall be sourced exclusively from the City/County Fund.

(b) The Amount of the Expense Fund- The State recognizes the value litigating Local Governments bring to the State in connection with the Settlement because their participation increases the amount of Incentive Payments due from each Pharmaceutical Supply Chain Participant. In recognition of that value, the amount of funds that shall be deposited into the Expense Fund shall be contingent upon on the percentage of litigating Local Government participation in the Settlement, according to the following table:

Litigating Local Government Participation in the Settlement (by percentage of the population)	Amount that shall be paid into the Expense Fund from (and as a percentage of) the City/County fund
96 to 100%	10%
91 to 95%	7.5%
86 to 90%	5%
85%	2.5%
Less than 85%	0%

If fewer than 85% percent of the litigating Local Governments (by population) participate, then the Expense Fund shall not be funded, and this Section of the Agreement shall be null and void.

(c) The Timing of Payments into the Expense Fund- Although the amount of the Expense Fund shall be calculated based on the entirety of payments due to the City/County fund over a ten-to-eighteen-year period, the Expense Fund shall be funded entirely from payments made by Pharmaceutical Supply Chain Participants during the first two payments of the Settlement. Accordingly, to offset the amounts being paid from the

City/County Fund to the Expense Fund in the first two years, Counties or Municipalities may borrow from the Regional Fund during the first two years and pay the borrowed amounts back to the Regional Fund during years three, four, and five.

For the avoidance of doubt, the following provides an illustrative example regarding the calculation of payments and amounts that may be borrowed under the terms of this MOU, consistent with the provisions of this Section:

Opioid Funds due to State of Florida and Local Governments (over 10 to 18 years):	\$1,000
Litigating Local Government Participation:	100%
City/County Fund (over 10 to 18 years):	\$150
Expense Fund (paid over 2 years):	\$15
Amount Paid to Expense Fund in 1st year:	\$7.5
Amount Paid to Expense Fund in 2nd year:	\$7.5
Amount that may be borrowed from Regional Fund in 1st year:	\$7.5
Amount that may be borrowed from Regional Fund in 2nd year:	\$7.5
Amount that must be paid back to Regional Fund in 3rd year:	\$5
Amount that must be paid back to Regional Fund in 4th year:	\$5
Amount that must be paid back to Regional Fund in 5th year:	\$5

(d) Creation of and Jurisdiction over the Expense Fund- The Expense Fund shall be established, consistent with the provisions of this Section of the Agreement, by order of the Court. The Court shall have jurisdiction over the Expense Fund, including authority to allocate and disburse amounts from the Expense Fund and to resolve any disputes concerning the Expense Fund.

(e) Allocation of Payments to Counsel from the Expense Fund- As part of the order establishing the Expense Fund, counsel for the litigating Local Governments shall seek to have the Court appoint a third-neutral to serve as a special master for purposes of allocating the Expense Fund. Within 30 days of entry of the order appointing a special master for the Expense Fund, any counsel who intend to seek an award from the Expense Fund shall provide the copies of their contingency fee contracts to the special master. The special master shall then build a mathematical model, which shall be based on each litigating Local Government's share under the Negotiation Class Metrics and the rate set forth in their contingency contracts, to calculate a proposed award for each litigating Local Government who timely provided a copy of its contingency contract.

13. **Dispute resolution**- Any one or more of the Local Governments or the State may object to an allocation or expenditure of Opioid Funds solely on the basis that the allocation or expenditure at issue (a) is inconsistent with the Approved Purposes; (b) is inconsistent with the distribution scheme as provided in paragraph; (c) violates the limitations set forth herein with respect to administrative costs or the Expense Fund; or (d) to recover amounts advanced from the Regional Fund for the Expense Fund. There shall be no other basis for bringing an objection to the approval of an allocation or expenditure of Opioid Funds. In the event that there is a National Settlement Administrator or similar entity, the Local Governments sole action for non-payment of

amounts due from the City/County Fund shall be against the particular settling defendant and/or the National Settlement Administrator or similar entity.

C. Other Terms and Conditions

1. **Governing Law and Venue:** This Agreement will be governed by the laws of the State of Florida. Any and all litigation arising under the Agreement, unless otherwise specified in this Agreement, will be instituted in either: (a) the Court that enters the Order if the matter deals with a matter covered by the Order and the Court retains jurisdiction; or (b) the appropriate State court in Leon County, Florida.

2. **Agreement Management and Notification:** The Parties have identified the following individuals as Agreement Managers and Administrators:

a. State of Florida Agreement Manager:

Greg Slempp

PL-01, The Capitol, Tallahassee, FL 32399

850-414-3300

Greg.slemp@myfloridalegal.com

b. State of Florida Agreement Administrator

Janna Barineau

PL-01, The Capitol, Tallahassee, FL 32399

850-414-3300

Janna.barineau@myfloridalegal.com

c. Local Governments Agreement Managers and Administrators are listed on Exhibit C to this Agreement.

Changes to either the Managers or Administrators may be made by notifying the other Party in writing, without formal amendment to this Agreement.

3. **Notices.** All notices required under the Agreement will be delivered by certified mail, return receipt requested, by reputable air courier, or by personal delivery to the designee identified in paragraphs C.2., above. Either designated recipient may notify the other, in writing, if someone else is designated to receive notice.

4. **Cooperation with Inspector General:** Pursuant to section 20.055, Florida Statutes, the Parties, understand and will comply with their duty to cooperate with the Inspector General in any investigation, audit, inspection, review, or hearing.

5. **Public Records:** The Parties will keep and maintain public records pursuant to Chapter 119, Florida Statutes and will comply with all applicable provisions of that Chapter.

6. **Modification:** This Agreement may only be modified by a written amendment between the appropriate parties. No promises or agreements made subsequent to the execution of this Agreement shall be binding unless express, reduced to writing, and signed by the Parties.

7. **Execution in Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

8. **Assignment:** The rights granted in this Agreement may not be assigned or transferred by any party without the prior written approval of the other party. No party shall be permitted to delegate its responsibilities or obligations under this Agreement without the prior written approval of the other parties.

9. **Additional Documents:** The Parties agree to cooperate fully and execute any and all supplementary documents and to take all additional actions which may be reasonably necessary or appropriate to give full force and effect to the basic terms and intent of this Agreement.

10. **Captions:** The captions contained in this Agreement are for convenience only and shall in no way define, limit, extend or describe the scope of this Agreement or any part of it.

11. **Entire Agreement:** This Agreement, including any attachments, embodies the entire agreement of the parties. There are no other provisions, terms, conditions, or obligations. This Agreement supersedes all previous oral or written communications, representations or agreements on this subject.

12. **Construction:** The parties hereto hereby mutually acknowledge and represent that they have been fully advised by their respective legal counsel of their rights and responsibilities under this Agreement, that they have read, know, and understand completely the contents hereof, and that they have voluntarily executed the same. The parties hereto further hereby mutually acknowledge that they have had input into the drafting of this Agreement and that, accordingly, in any construction to be made of this Agreement, it shall not be construed for or against any party, but rather shall be given a fair and reasonable interpretation, based on the plain language of the Agreement and the expressed intent of the parties.

13. **Capacity to Execute Agreement:** The parties hereto hereby represent and warrant that the individuals signing this Agreement on their behalf are duly authorized and fully competent to do so.

14. **Effectiveness:** This Agreement shall become effective on the date on which the last required signature is affixed to this Agreement.

IN WITNESS THEREOF, the parties hereto have caused the Agreement to be executed by their undersigned officials as duly authorized.

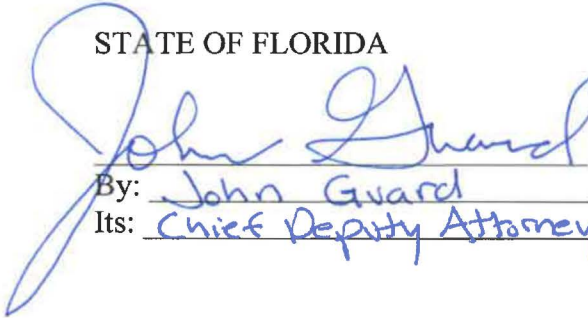
STATE OF FLORIDA

By: John Guard DATED 11/15/2021
Its: Chief Deputy Attorney General

EXHIBIT A

Schedule A

Core Strategies

States and Qualifying Block Grantees shall choose from among the abatement strategies listed in Schedule B. However, priority shall be given to the following core abatement strategies (“**Core Strategies**”)[, such that a minimum of __% of the [aggregate] state-level abatement distributions shall be spent on [one or more of] them annually].¹

A. Naloxone or other FDA-approved drug to reverse opioid overdoses

1. Expand training for first responders, schools, community support groups and families; and
2. Increase distribution to individuals who are uninsured or whose insurance does not cover the needed service.

B. Medication-Assisted Treatment (“MAT”) Distribution and other opioid-related treatment

1. Increase distribution of MAT to non-Medicaid eligible or uninsured individuals;
2. Provide education to school-based and youth-focused programs that discourage or prevent misuse;
3. Provide MAT education and awareness training to healthcare providers, EMTs, law enforcement, and other first responders; and
4. Treatment and Recovery Support Services such as residential and inpatient treatment, intensive outpatient treatment, outpatient therapy or counseling, and recovery housing that allow or integrate medication with other support services.

C. Pregnant & Postpartum Women

1. Expand Screening, Brief Intervention, and Referral to Treatment (“SBIRT”) services to non-Medicaid eligible or uninsured pregnant women;
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for women with co-occurring Opioid Use Disorder (“OUD”) and other Substance Use Disorder (“SUD”)/Mental Health disorders for uninsured individuals for up to 12 months postpartum; and
3. Provide comprehensive wrap-around services to individuals with Opioid Use Disorder (OUD) including housing, transportation, job placement/training, and childcare.

D. Expanding Treatment for Neonatal Abstinence Syndrome

1. Expand comprehensive evidence-based and recovery support for NAS babies;
2. Expand services for better continuum of care with infant-need dyad; and
3. Expand long-term treatment and services for medical monitoring of NAS babies and their families.

¹ As used in this Schedule A, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

E. Expansion of Warm Hand-off Programs and Recovery Services

1. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments;
2. Expand warm hand-off services to transition to recovery services;
3. Broaden scope of recovery services to include co-occurring SUD or mental health conditions. ;
4. Provide comprehensive wrap-around services to individuals in recovery including housing, transportation, job placement/training, and childcare; and
5. Hire additional social workers or other behavioral health workers to facilitate expansions above.

F. Treatment for Incarcerated Population

1. Provide evidence-based treatment and recovery support including MAT for persons with OUD and co-occurring SUD/MH disorders within and transitioning out of the criminal justice system; and
2. Increase funding for jails to provide treatment to inmates with OUD.

G. Prevention Programs

1. Funding for media campaigns to prevent opioid use (similar to the FDA's "Real Cost" campaign to prevent youth from misusing tobacco);
2. Funding for evidence-based prevention programs in schools.;
3. Funding for medical provider education and outreach regarding best prescribing practices for opioids consistent with the 2016 CDC guidelines, including providers at hospitals (academic detailing);
4. Funding for community drug disposal programs; and
5. Funding and training for first responders to participate in pre-arrest diversion programs, post-overdose response teams, or similar strategies that connect at-risk individuals to behavioral health services and supports.

H. Expanding Syringe Service Programs

1. Provide comprehensive syringe services programs with more wrap-around services including linkage to OUD treatment, access to sterile syringes, and linkage to care and treatment of infectious diseases.

I. Evidence-based data collection and research analyzing the effectiveness of the abatement strategies within the State.

EXHIBIT B

Schedule

Additional

PART ONE TREATMENT

ASSS

Support treatment of Opioid Use Disorder (OUD) and any co-occurring Substance Use Disorder or Mental Health (SUD/MH) conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following ²

1. Expand availability of treatment for OUD and any co-occurring SUD/MH conditions, including all forms of Medication-Assisted Treatment (MAT) approved by the U.S. Food and Drug Administration.
2. Support and reimburse evidence-based services that adhere to the American Society of Addiction Medicine (ASAM) continuum of care for OUD and any co-occurring SUD/MH conditions
3. Expand telehealth to increase access to treatment for OUD and any co-occurring SUD/MH conditions, including MAT, as well as counseling, psychiatric support, and other treatment and recovery support services.
4. Improve oversight of Opioid Treatment Programs (OTPs) to assure evidence-based or evidence-informed practices such as adequate methadone dosing and low threshold approaches to treatment.
5. Support mobile intervention, treatment, and recovery services, offered by qualified professionals and service providers, such as peer recovery coaches, for persons with OUD and any co-occurring SUD/MH conditions and for persons who have experienced an opioid overdose.
6. Treatment of trauma for individuals with OUD (e.g., violence, sexual assault, human trafficking, or adverse childhood experiences) and family members (e.g., surviving family members after an overdose or overdose fatality), and training of health care personnel to identify and address such trauma.
 - . Support evidence-based withdrawal management services for people with OUD and any co-occurring mental health conditions.
 - . Training on MAT for health care providers, first responders, students, or other supporting professionals, such as peer recovery coaches or recovery outreach specialists, including telementoring to assist community-based providers in rural or underserved areas.
 - . Support workforce development for addiction professionals who work with persons with OUD and any co-occurring SUD/MH conditions.
10. Fellowships for addiction medicine specialists for direct patient care, instructors, and clinical research for treatments.
11. Scholarships and supports for behavioral health practitioners or workers involved in addressing OUD and any co-occurring SUD or mental health conditions, including but not limited to training,

² As used in this Schedule B, words like “expand,” “fund,” “provide” or the like shall not indicate a preference for new or existing programs. Priorities will be established through the mechanisms described in the Term Sheet.

scholarships, fellowships, loan repayment programs, or other incentives for providers to work in rural or underserved areas.

12. [Intentionally Blank to be cleaned up later for numbering]

13. Provide funding and training for clinicians to obtain a waiver under the federal Drug Addiction Treatment Act of 2000 (DATA 2000) to prescribe MAT for OUD, and provide technical assistance and professional support to clinicians who have obtained a DATA 2000 waiver.

14. Dissemination of web-based training curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service-Opioids web-based training curriculum and motivational interviewing.

15. Development and dissemination of new curricula, such as the American Academy of Addiction Psychiatry's Provider Clinical Support Service for Medication-Assisted Treatment.

S A A C

Support people in treatment for or recovery from OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Provide comprehensive wrap-around services to individuals with OUD and any co-occurring SUD/MH conditions, including housing, transportation, education, job placement, job training, or childcare.
 2. Provide the full continuum of care of treatment and recovery services for OUD and any co-occurring SUD/MH conditions, including supportive housing, peer support services and counseling, community navigators, case management, and connections to community-based services.
 3. Provide counseling, peer-support, recovery case management and residential treatment with access to medications for those who need it to persons with OUD and any co-occurring SUD/MH conditions.
 4. Provide access to housing for people with OUD and any co-occurring SUD/MH conditions, including supportive housing, recovery housing, housing assistance programs, training for housing providers, or recovery housing programs that allow or integrate FDA-approved medication with other support services.
 5. Provide community support services, including social and legal services, to assist in deinstitutionalizing persons with OUD and any co-occurring SUD/MH conditions.
 6. Support or expand peer-recovery centers, which may include support groups, social events, computer access, or other services for persons with OUD and any co-occurring SUD/MH conditions.
- . Provide or support transportation to treatment or recovery programs or services for persons with OUD and any co-occurring SUD/MH conditions.
 - . Provide employment training or educational services for persons in treatment for or recovery from OUD and any co-occurring SUD/MH conditions.

. Identify successful recovery programs such as physician, pilot, and college recovery programs, and provide support and technical assistance to increase the number and capacity of high- quality program s to help those in recovery.

10. Engage non-profits, faith-based communities, and community coalitions to support people in treatment and recovery and to support family members in their efforts to support the person with OUD in the family.

11. Training and development of procedures for government staff to appropriately interact and provide social and other services to individuals with or in recovery from OUD, including reducing stigma.

12. Support stigma reduction efforts regarding treatment and support for persons with OUD, including reducing the stigma on effective treatment.

13. Create or support culturally appropriate services and programs for persons with OUD and any co-occurring SUD/MH conditions, including new Americans.

14. Create and/or support recovery high schools.

15. Hire or train behavioral health workers to provide or expand any of the services or supports listed above.

C C C
CA

C C S

Provide connections to care for people who have or at risk of developing OUD and any co-occurring SUD/MH conditions through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Ensure that health care providers are screening for OUD and other risk factors and know how to appropriately counsel and treat (or refer if necessary) a patient for OUD treatment.

2. Fund Screening, Brief Intervention and Referral to Treatment (SBIRT) programs to reduce the transition from use to disorders, including SBIRT services to pregnant women who are uninsured or not eligible for Medicaid.

3. Provide training and long-term implementation of SBIRT in key systems (health, schools, colleges, criminal justice, and probation), with a focus on youth and young adults when transition from misuse to opioid disorder is common.

4. Purchase automated versions of SBIRT and support ongoing costs of the technology.

5. Expand services such as navigators and on-call teams to begin MAT in hospital emergency departments.

6. Training for emergency room personnel treating opioid overdose patients on post-discharge planning, including community referrals for MAT, recovery case management or support services.

. Support hospital programs that transition persons with OUD and any co-occurring SUD/MH conditions, or persons who have experienced an opioid overdose, into clinically-appropriate follow-up care through a bridge clinic or similar approach.

. Support crisis stabilization centers that serve as an alternative to hospital emergency departments for persons with OUD and any co-occurring SUD/MH conditions or persons that have experienced an opioid overdose.

. Support the work of Emergency Medical Systems, including peer support specialists, to connect individuals to treatment or other appropriate services following an opioid overdose or other opioid-related adverse event.

10. Provide funding for peer support specialists or recovery coaches in emergency departments, detox facilities, recovery centers, recovery housing, or similar settings; offer services, supports, or connections to care to persons with OUD and any co-occurring SUD/MH conditions or to persons who have experienced an opioid overdose.

11. Expand warm hand-off services to transition to recovery services.

12. Create or support school-based contacts that parents can engage with to seek immediate treatment services for their child; and support prevention, intervention, treatment, and recovery programs focused on young people.

13. Develop and support best practices on addressing OUD in the workplace.

14. Support assistance programs for health care providers with OUD.

15. Engage non-profits and the faith community as a system to support outreach for treatment.

16. Support centralized call centers that provide information and connections to appropriate services and supports for persons with OUD and any co-occurring SUD/MH conditions.

A SS S C

A S C

S S

Address the needs of persons with OUD and any co-occurring SUD/MH conditions who are involved in, are at risk of becoming involved in, or are transitioning out of the criminal justice system through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Support pre-arrest or pre-arraignment diversion and deflection strategies for persons with OUD and any co-occurring SUD/MH conditions, including established strategies such as

a. Self-referral strategies such as the Angel Programs or the Police Assisted Addiction Recovery Initiative (PAARI);

b. Active outreach strategies such as the Drug Abuse Response Team (DART) model;

c. “Naloxone Plus” strategies, which work to ensure that individuals who have received naloxone to reverse the effects of an overdose are then linked to treatment programs or other appropriate services;

d. Officer prevention strategies, such as the Law Enforcement Assisted Diversion (LEAD) model;

e. Officer intervention strategies such as the Leon County, Florida Adult Civil Citation Network or the Chicago Westside Narcotics Diversion to Treatment Initiative; or

f. Co-responder and/or alternative responder models to address OUD-related 11 calls with greater SUD expertise

2. Support pre-trial services that connect individuals with OUD and any co-occurring SUD/MH conditions to evidence-informed treatment, including MAT, and related services.
 3. Support treatment and recovery courts that provide evidence-based options for persons with OUD and any co-occurring SUD/MH conditions
 4. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are incarcerated in jail or prison.
 5. Provide evidence-informed treatment, including MAT, recovery support, harm reduction, or other appropriate services to individuals with OUD and any co-occurring SUD/MH conditions who are leaving jail or prison have recently left jail or prison, are on probation or parole, are under community corrections supervision, or are in re-entry programs or facilities.
 6. Support critical time interventions (CTI), particularly for individuals living with dual-diagnosis OUD/serious mental illness, and services for individuals who face immediate risks and service needs and risks upon release from correctional settings.
- . Provide training on best practices for addressing the needs of criminal-justice-involved persons with OUD and any co-occurring SUD/MH conditions to law enforcement, correctional, or judicial personnel or to providers of treatment, recovery, harm reduction, case management, or other services offered in connection with any of the strategies described in this section.

A SS S A A A
A S C A S A A A S C S

Address the needs of pregnant or parenting women with OUD and any co-occurring SUD/MH conditions, and the needs of their families, including babies with neonatal abstinence syndrome (NAS), through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Support evidence-based or evidence-informed treatment, including MAT, recovery services and supports, and prevention services for pregnant women or women who could become pregnant who have OUD and any co-occurring SUD/MH conditions, and other measures to educate and provide support to families affected by Neonatal Abstinence Syndrome.
2. Expand comprehensive evidence-based treatment and recovery services, including MAT, for uninsured women with OUD and any co-occurring SUD/MH conditions for up to 12 months postpartum.
3. Training for obstetricians or other healthcare personnel that work with pregnant women and their families regarding treatment of OUD and any co-occurring SUD/MH conditions.
4. Expand comprehensive evidence-based treatment and recovery support for NAS babies; expand services for better continuum of care with infant-need dyad; expand long-term treatment and services for medical monitoring of NAS babies and their families.

5. Provide training to health care providers who work with pregnant or parenting women on best practices for compliance with federal requirements that children born with Neonatal Abstinence Syndrome get referred to appropriate services and receive a plan of safe care.

6. Child and family supports for parenting women with OUD and any co-occurring SUD/MH conditions.

- . Enhanced family supports and child care services for parents with OUD and any co-occurring SUD/MH conditions.

- . Provide enhanced support for children and family members suffering trauma as a result of addiction in the family; and offer trauma-informed behavioral health treatment for adverse childhood events.

- . Offer home-based wrap-around services to persons with OUD and any co-occurring SUD/MH conditions, including but not limited to parent skills training.

10. Support for Children's Services Fund additional positions and services, including supportive housing and other residential services, relating to children being removed from the home and/or placed in foster care due to custodial opioid use.

PART TWO PREVENTION

S S S S C A S A A S C A

Support efforts to prevent over-prescribing and ensure appropriate prescribing and dispensing of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Fund medical provider education and outreach regarding best prescribing practices for opioids consistent with Guidelines for Prescribing Opioids for Chronic Pain from the U.S. Centers for Disease Control and Prevention, including providers at hospitals (academic detailing).

2. Training for health care providers regarding safe and responsible opioid prescribing, dosing, and tapering patients off opioids.

3. Continuing Medical Education (CME) on appropriate prescribing of opioids.

4. Support for non-opioid pain treatment alternatives, including training providers to offer or refer to multi-modal, evidence-informed treatment of pain.

5. Support enhancements or improvements to Prescription Drug Monitoring Programs (PDMPs), including but not limited to improvements that

- a. Increase the number of prescribers using PDMPs;

- b. Improve point-of-care decision-making by increasing the quantity, quality, or format of data available to prescribers using PDMPs, by improving the interface that prescribers use to access PDMP data, or both; or

c. Enable states to use PDMP data in support of surveillance or intervention strategies, including MAT referrals and follow-up for individuals identified within PDMP data as likely to experience OUD in a manner that complies with all relevant privacy and security laws and rules.

6. Ensuring PDMPs incorporate available overdose/naloxone deployment data, including the United States Department of Transportation's Emergency Medical Technician overdose database in a manner that complies with all relevant privacy and security laws and rules.

- . Increase electronic prescribing to prevent diversion or forgery.
- . Educate Dispensers on appropriate opioid dispensing.

S S S

Support efforts to discourage or prevent misuse of opioids through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Fund media campaigns to prevent opioid misuse.
2. Corrective advertising or affirmative public education campaigns based on evidence.
3. Public education relating to drug disposal.
4. Drug take-back disposal or destruction programs.
5. Fund community anti-drug coalitions that engage in drug prevention efforts.
6. Support community coalitions in implementing evidence-informed prevention, such as reduced social access and physical access, stigma reduction including staffing, educational campaigns, support for people in treatment or recovery, or training of coalitions in evidence-informed implementation, including the Strategic Prevention Framework developed by the U.S. Substance Abuse and Mental Health Services Administration (SAMHSA).
- . Engage non-profits and faith-based communities as systems to support prevention.
- . Fund evidence-based prevention programs in schools or evidence-informed school and community education programs and campaigns for students, families, school employees, school athletic programs, parent-teacher and student associations, and others.
- . School-based or youth-focused programs or strategies that have demonstrated effectiveness in preventing drug misuse and seem likely to be effective in preventing the uptake and use of opioids.
10. Create of support community-based education or intervention services for families, youth, and adolescents at risk for OUD and any co-occurring SUD/MH conditions.
11. Support evidence-informed programs or curricula to address mental health needs of young people who may be at risk of misusing opioids or other drugs, including emotional modulation and resilience skills.
12. Support greater access to mental health services and supports for young people, including services and supports provided by school nurses, behavioral health workers or other school staff, to address

mental health needs in young people that (when not properly addressed) increase the risk of opioid or other drug misuse.

S A S A A S A C

Support efforts to prevent or reduce overdose deaths or other opioid-related harms through evidence-based or evidence-informed programs or strategies that may include, but are not limited to, the following

1. Increase availability and distribution of naloxone and other drugs that treat overdoses for first responders, overdose patients, individuals with OUD and their friends and family members, individuals at high risk of overdose, schools, community navigators and outreach workers, persons being released from jail or prison, or other members of the general public.
2. Public health entities provide free naloxone to anyone in the community
3. Training and education regarding naloxone and other drugs that treat overdoses for first responders, overdose patients, patients taking opioids, families, schools, community support groups, and other members of the general public.
4. Enable school nurses and other school staff to respond to opioid overdoses, and provide them with naloxone, training, and support.
5. Expand, improve, or develop data tracking software and applications for overdoses/naloxone revivals.
6. Public education relating to emergency responses to overdoses.
 - . Public education relating to immunity and Good Samaritan laws.
 - . Educate first responders regarding the existence and operation of immunity and Good Samaritan laws.
 - . Syringe service programs and other evidence-informed programs to reduce harms associated with intravenous drug use, including supplies, staffing, space, peer support services, referrals to treatment, fentanyl checking, connections to care, and the full range of harm reduction and treatment services provided by these programs.
10. Expand access to testing and treatment for infectious diseases such as HI and Hepatitis C resulting from intravenous opioid use.
11. Support mobile units that offer or provide referrals to harm reduction services, treatment, recovery supports, health care, or other appropriate services to persons that use opioids or persons with OUD and any co-occurring SUD/MH conditions.
12. Provide training in harm reduction strategies to health care providers, students, peer recovery coaches, recovery outreach specialists, or other professionals that provide care to persons who use opioids or persons with OUD and any co-occurring SUD/MH conditions.
13. Support screening for fentanyl in routine clinical toxicology testing.

PART THREE OTHER STRATEGIES

S S S

In addition to items in sections C, D, and H relating to first responders, support the following

1. Educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with fentanyl or other drugs.
2. Provision of wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

A S A A C A

Support efforts to provide leadership, planning, coordination, facilitation, training and technical assistance to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following

1. Statewide, regional, local, or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services; to support training and technical assistance; or to support other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
2. A dashboard to share reports, recommendations, or plans to spend opioid settlement funds; to show how opioid settlement funds have been spent; to report program or strategy outcomes; or to track, share, or visualize key opioid-related or health-related indicators and supports as identified through collaborative statewide, regional, local, or community processes.
3. Invest in infrastructure or staffing at government or not-for-profit agencies to support collaborative, cross-system coordination with the purpose of preventing overprescribing, opioid misuse, or opioid overdoses, treating those with OUD and any co-occurring SUD/MH conditions, supporting them in treatment or recovery, connecting them to care, or implementing other strategies to abate the opioid epidemic described in this opioid abatement strategy list.
4. Provide resources to staff government oversight and management of opioid abatement programs.

A

In addition to the training referred to throughout this document, support training to abate the opioid epidemic through activities, programs, or strategies that may include, but are not limited to, the following

1. Provide funding for staff training or networking programs and services to improve the capability of government, community, and not-for-profit entities to abate the opioid crisis.
2. Support infrastructure and staffing for collaborative cross-system coordination to prevent opioid misuse, prevent overdoses, and treat those with OUD and any co-occurring SUD/MH conditions, or implement other strategies to abate the opioid epidemic described in this opioid abatement strategy list (e.g., health care, primary care, pharmacies, PDMPs, etc.).

S A C

Support opioid abatement research that may include, but is not limited to, the following

1. Monitoring, surveillance, data collection, and evaluation of programs and strategies described in this opioid abatement strategy list.
2. Research non-opioid treatment of chronic pain.
3. Research on improved service delivery for modalities such as SBIRT that demonstrate promising but mixed results in populations vulnerable to opioid use disorders.
4. Research on novel harm reduction and prevention efforts such as the provision of fentanyl test strips.
5. Research on innovative supply-side enforcement efforts such as improved detection of mail-based delivery of synthetic opioids.
6. Expanded research on swift/certain/fair models to reduce and deter opioid misuse within criminal justice populations that build upon promising approaches used to address other substances (e.g. Hawaii HOPE and Dakota 24/).
 - . Epidemiological surveillance of OUD-related behaviors in critical populations including individuals entering the criminal justice system, including but not limited to approaches modeled on the Arrestee Drug Abuse Monitoring (ADAM) system.
 - . Qualitative and quantitative research regarding public health risks and harm reduction opportunities within illicit drug markets, including surveys of market participants who sell or distribute illicit opioids.
 - . Geospatial analysis of access barriers to MAT and their association with treatment engagement and treatment outcomes.

EXHIBIT C

County	Allocated Subdivisions	Regional % by County for Abatement Fund	City/County Fund %
Alachua		1.241060164449%	
	Alachua County		0.821689546303%
	Alachua		0.013113332457%
	Archer		0.000219705515%
	Gainesville		0.381597611347%
	Hawthorne		0.000270546460%
	High Springs		0.011987568663%
	La Crosse		0.000975056706%
	Micanopy		0.002113530737%
	Newberry		0.006102729215%
	Waldo		0.002988721299%
Baker		0.193173804130%	
	Baker County		0.169449240037%
	Glen St. Mary		0.000096234647%
	Macclenny		0.023628329446%
Bay		0.839656373312%	
	Bay County		0.508772605155%
	Callaway		0.024953825527%
	Lynn Haven		0.039205632015%
	Mexico Beach		0.005614292988%
	Panama City		0.155153855596%
	Panama City Beach		0.080897023117%
	Parker		0.008704696178%
	Springfield		0.016354442736%
Bradford		0.189484204081%	
	Bradford County		0.151424309090%
	Brooker		0.000424885045%
	Hampton		0.002839829959%
	Lawtey		0.003400896108%
	Starke		0.031392468132%
Brevard		3.878799180444%	
	Brevard County		2.323022668525%
	Cape Canaveral		0.045560750209%

	Cocoa		0.149245411423%
	Cocoa Beach		0.084363286155%
	Grant-Valkaria		0.000321387406%
	Indialantic		0.024136738902%
	Indian Harbour Beach		0.021089913665%
	Malabar		0.002505732317%
	Melbourne		0.383104682233%
	Melbourne Beach		0.012091066302%
	Melbourne Village		0.003782203200%
	Palm Bay		0.404817397481%
	Palm Shores		0.000127102364%
	Rockledge		0.096603243798%
	Satellite Beach		0.035975416224%
	Titusville		0.240056418924%
	West Melbourne		0.051997577066%
Broward		9.057962672578%	
	Broward County		3.966403576878%
	Coconut Creek		0.101131719448%
	Cooper City		0.073935445073%
	Coral Springs		0.323406517664%
	Dania Beach		0.017807041180%
	Davie		0.266922227153%
	Deerfield Beach		0.202423224725%
	Fort Lauderdale		0.830581264531%
	Hallandale Beach		0.154950491814%
	Hillsboro Beach		0.012407006463%
	Hollywood		0.520164608456%
	Lauderdale-By-The-Sea		0.022807611325%
	Lauderdale Lakes		0.062625150435%
	Lauderhill		0.144382838130%
	Lazy Lake		0.000021788977%
	Lighthouse Point		0.029131861803%
	Margate		0.143683775129%
	Miramar		0.279280208419%
	North Lauderdale		0.066069624496%

	Oakland Park		0.100430840699%
	Ocean Breeze		0.005381877237%
	Parkland		0.045804060448%
	Pembroke Park		0.024597938908%
	Pembroke Pines		0.462832363603%
	Plantation		0.213918725664%
	Pompano Beach		0.335472163493%
	Sea Ranch Lakes		0.005024174870%
	Southwest Ranches		0.025979723178%
	Sunrise		0.286071106146%
	Tamarac		0.134492458472%
	Weston		0.138637811283%
	West Park		0.029553115352%
	Wilton Manors		0.031630331127%
Calhoun		0.047127740781%	
	Calhoun County		0.038866087128%
	Altha		0.000366781107%
	Blountstown		0.007896688293%
Charlotte		0.737346233376%	
	Charlotte County		0.690225755587%
	Punta Gorda		0.047120477789%
Citrus		0.969645776606%	
	Citrus County		0.929715661117%
	Crystal River		0.021928789266%
	Inverness		0.018001326222%
Clay		1.193429461456%	
	Clay County		1.055764891131%
	Green Cove Springs		0.057762577142%
	Keystone Heights		0.000753535443%
	Orange Park		0.078589207339%
	Penney Farms		0.000561066149%
Collier		1.551333376427%	
	Collier County		1.354673336030%
	Everglades		0.000148891341%
	Marco Island		0.062094952003%

	Naples		0.134416197054%
Columbia		0.446781150792%	
	Columbia County		0.341887201373%
	Fort White		0.000236047247%
	Lake City		0.104659717920%
DeSoto		0.113640407802%	
	DeSoto County		0.096884684746%
	Arcadia		0.016755723056%
Dixie		0.103744580900%	
	Dixie County		0.098822087921%
	Cross City		0.004639236282%
	Horseshoe Beach		0.000281440949%
Duval		5.434975156935%	
	Jacksonville		5.270570064997%
	Atlantic Beach		0.038891507601%
	Baldwin		0.002251527589%
	Jacksonville Beach		0.100447182431%
	Neptune Beach		0.022814874318%
Escambia		1.341634449244%	
	Escambia County		1.005860871574%
	Century		0.005136751249%
	Pensacola		0.330636826421%
Flagler		0.389864712244%	
	Flagler Counry		0.279755934409%
	Beverly Beach		0.000154338585%
	Bunnell		0.009501809575%
	Flagler Beach		0.015482883669%
	Marineland		0.000114392127%
	Palm Coast		0.084857169626%
Franklin		0.049911282550%	
	Franklin County		0.046254365966%
	Apalachicola		0.001768538606%
	Carabelle		0.001888377978%
Gadsden		0.123656074077%	
	Gadsden County		0.090211810642%

	Chattahoochee		0.004181667772%
	Greensboro		0.000492067723%
	Gretna		0.002240633101%
	Havana		0.005459954403%
	Midway		0.001202025213%
	Quincy		0.019867915223%
Gilchrist		0.064333769355%	
	Gilchrist County		0.061274233881%
	Bell		0.000099866143%
	Fanning Springs		0.000388570084%
	Trenton		0.002571099247%
Glades		0.040612836758%	
	Glades County		0.040420367464%
	Moore Haven		0.000192469294%
Gulf		0.059914238588%	
	Gulf County		0.054715751905%
	Port St. Joe		0.004817179591%
	Wewahitchka		0.000381307092%
Hamilton		0.047941195910%	
	Hamilton County		0.038817061931%
	Jasper		0.004869836285%
	Jennings		0.002623755940%
	White Springs		0.001630541754%
Hardee		0.067110048132%	
	Hardee County		0.058100306280%
	Bowling Green		0.001797590575%
	Wauchula		0.006667426860%
	Zolfo Springs		0.000544724417%
Hendry		0.144460915297%	
	Hendry County		0.122147187443%
	Clewiston		0.017589151414%
	LaBelle		0.004724576440%
Hernando		1.510075949110%	
	Hernando County		1.447521612849%
	Brooksville		0.061319627583%

	Weeki Wachee		0.001234708678%
Highlands		0.357188510237%	
	Highlands County		0.287621754986%
	Avon Park		0.025829016090%
	Lake Placid		0.005565267790%
	Sebring		0.038172471371%
Hillsborough		8.710984113657%	
	Hillsborough County		6.523111204400%
	Plant City		0.104218491142%
	Tampa		1.975671881253%
	Temple Terrace		0.107980721113%
Holmes		0.081612427851%	
	Holmes County		0.066805002459%
	Bonifay		0.006898026863%
	Esto		0.006269778036%
	Noma		0.001278286631%
	Ponce de Leon		0.000179759057%
	Westville		0.000179759057%
Indian River		0.753076058781%	
	Indian River County		0.623571460217%
	Fellsmere		0.004917045734%
	Indian River shores		0.025322422382%
	Orchid		0.000306861421%
	Sebastian		0.038315915467%
	Vero Beach		0.060642353558%
Jackson		0.158936058795%	
	Jackson County		0.075213731704%
	Alford		0.000303229925%
	Bascom		0.000061735434%
	Campbellton		0.001648699234%
	Cottondale		0.001093080329%
	Graceville		0.002794436257%
	Grandridge		0.000030867717%
	Greenwood		0.001292812616%
	Jacob City		0.000481173235%

	Malone		0.000092603151%
	Marianna		0.073519638768%
	Sneads		0.002404050426%
Jefferson		0.040821647784%	
	Jefferson County		0.037584169001%
	Monticello		0.003237478783%
Lafayette		0.031911772076%	
	Lafayette County		0.031555885457%
	Mayo		0.000355886619%
Lake		1.139211224519%	
	Lake County		0.757453827343%
	Astatula		0.002727253579%
	Clermont		0.075909163209%
	Eustis		0.041929254098%
	Fruitland Park		0.008381493024%
	Groveland		0.026154034992%
	Howey-In-The-Hills		0.002981458307%
	Lady Lake		0.025048244426%
	Leesburg		0.091339390185%
	Mascotte		0.011415608025%
	Minneola		0.016058475803%
	Montverde		0.001347285057%
	Mount Dora		0.041021380070%
	Tavares		0.031820984673%
	Umatilla		0.005623371728%
Lee		3.325371883359%	
	Lee County		2.115268407509%
	Bonita Springs		0.017374893143%
	Cape Coral		0.714429677167%
	Estero		0.012080171813%
	Fort Myers		0.431100350585%
	Fort Myers Beach		0.000522935440%
	Sanibel		0.034595447702%
Leon		0.897199244939%	
	Leon County		0.471201146391%

	Tallahassee		0.425998098549%
Levy		0.251192401748%	
	Levy County		0.200131750679%
	Bronson		0.005701448894%
	Cedar Key		0.005180329202%
	Chiefland		0.015326729337%
	Fanning Springs		0.000808007885%
	Inglis		0.004976965420%
	Otter Creek		0.000408543312%
	Williston		0.017774357715%
	Yankeetown		0.000884269303%
Liberty		0.019399452225%	
	Liberty County		0.019303217578%
	Bristol		0.000096234647%
Madison		0.063540287455%	
	Madison County		0.053145129837%
	Greenville		0.000110760631%
	Lee		0.000019973229%
	Madison		0.010264423758%
Manatee		2.721323346235%	
	Manatee County		2.201647174006%
	Anna Maria		0.009930326116%
	Bradenton		0.379930754632%
	Bradenton Beach		0.014012127744%
	Holmes Beach		0.028038781473%
	Longboat Key		0.034895046131%
	Palmetto		0.052869136132%
Marion		1.701176168960%	
	Marion County		1.303728892837%
	Bellevue		0.009799592256%
	Dunnellon		0.018400790795%
	McIntosh		0.000145259844%
	Ocala		0.368994504094%
	Reddick		0.000107129135%
Martin		0.869487298116%	

	Martin County		0.750762795758%
	Jupiter Island		0.020873839646%
	Ocean Breeze Park		0.008270732393%
	Sewall's Point		0.008356072551%
	Stuart		0.081223857767%
Miami-Dade		5.232119784173%	
	Miami-Dade County		4.282797675552%
	Aventura		0.024619727885%
	Bal Harbour		0.010041086747%
	Bay Harbor Islands		0.004272455175%
	Biscayne Park		0.001134842535%
	Coral Gables		0.071780152131%
	Cutler Bay		0.009414653668%
	Doral		0.013977628531%
	El Portal		0.000924215760%
	Florida City		0.003929278792%
	Golden Beach		0.002847092951%
	Hialeah		0.098015895785%
	Hialeah Gardens		0.005452691411%
	Homestead		0.024935668046%
	Indian Creek		0.002543863026%
	Key Biscayne		0.013683477346%
	Medley		0.008748274131%
	Miami		0.292793005448%
	Miami Beach		0.181409572478%
	Miami Gardens		0.040683650932%
	Miami Lakes		0.007836768608%
	Miami Shores		0.006287935516%
	Miami Springs		0.006169911893%
	North Bay Village		0.005160355974%
	North Miami		0.030379280717%
	North Miami Beach		0.030391990953%
	Opa-locka		0.007847663096%
	Palmetto Bay		0.007404620570%
	Pinecrest		0.008296152866%

	South Miami		0.007833137111%
	Sunny Isles Beach		0.007693324511%
	Surfside		0.004869836285%
	Sweetwater		0.004116300842%
	Virginia Gardens		0.001172973244%
	West Miami		0.002654623657%
Monroe		0.476388738585%	
	Monroe County		0.330124785469%
	Islamorada		0.022357305808%
	Key Colony Beach		0.004751812661%
	Key West		0.088087385417%
	Layton		0.000150707089%
	Marathon		0.030916742141%
Nassau		0.476933463002%	
	Nassau County		0.392706357951%
	Callahan		0.000225152759%
	Fernandina Beach		0.083159445195%
	Hillard		0.000842507098%
Okaloosa		0.819212865955%	
	Okaloosa County		0.612059617545%
	Cinco Bayou		0.000733562214%
	Crestview		0.070440130066%
	Destin		0.014678507281%
	Fort Walton Beach		0.077837487644%
	Laurel Hill		0.000079892914%
	Mary Esther		0.009356549730%
	Niceville		0.021745398713%
	Shalimar		0.001824826796%
	Valparaiso		0.010456893052%
Okeechobee		0.353495278692%	
	Okeechobee County		0.314543851405%
	Okeechobee		0.038951427287%
Orange		4.671028214546%	
	Orange County		3.063330386979%
	Apopka		0.097215150892%

	Bay Lake		0.023566594013%
	Belle Isle		0.010798253686%
	Eatonville		0.008325204835%
	Edgewood		0.009716067845%
	Lake Buena Vista		0.010355211161%
	Maitland		0.046728276209%
	Oakland		0.005429086686%
	Ocoee		0.066599822928%
	Orlando		1.160248481490%
	Windemere		0.007548064667%
	Winter Garden		0.056264584996%
	Winter Park		0.104903028159%
Osceola		1.073452092940%	
	Osceola County		0.837248691390%
	Kissimmee		0.162366006872%
	St. Cloud		0.073837394678%
Palm Beach		8.601594372053%	
	Palm Beach County		5.552548475026%
	Atlantis		0.018751230169%
	Belle Glade		0.020828445945%
	Boca Raton		0.472069073961%
	Boynton Beach		0.306498271771%
	Briny Breezes		0.003257452012%
	Cloud Lake		0.000188837798%
	Delray Beach		0.351846579457%
	Glen Ridge		0.000052656694%
	Golf		0.004283349663%
	Greenacres		0.076424835657%
	Gulf Stream		0.010671151322%
	Haverhill		0.001084001589%
	Highland Beach		0.032510968934%
	Hypoluxo		0.005153092982%
	Juno Beach		0.016757538804%
	Jupiter Island		0.125466374888%
	Jupiter Inlet Colony		0.005276563849%

	Lake Clarke Shores		0.007560774903%
	Lake Park		0.029433275980%
	Lake Worth		0.117146617298%
	Lantana		0.024507151505%
	Loxahatchee Groves		0.002531152789%
	Manalapan		0.021632822333%
	Mangonia Park		0.010696571795%
	North Palm Beach		0.044349646256%
	Ocean Ridge		0.012786497807%
	Pahokee		0.004018250447%
	Palm Beach		0.185476848123%
	Palm Beach Gardens		0.233675880257%
	Palm Beach Shores		0.014135598612%
	Palm Springs		0.038021764282%
	Riviera Beach		0.163617057282%
	Royal Palm Beach		0.049295743959%
	South Bay		0.001830274040%
	South Palm Beach		0.005866681967%
	Tequesta		0.031893614595%
	Wellington		0.050183644758%
	West Palm Beach		0.549265602541%
Pasco		4.692087260494%	
	Pasco County		4.319205239813%
	Dade City		0.055819726723%
	New Port Richey		0.149879107494%
	Port Richey		0.049529975458%
	San Antonio		0.002189792155%
	St. Leo		0.002790804761%
	Zephyrhills		0.112672614089%
Pinellas		7.934889816777%	
	Pinellas County		4.546593184553%
	Belleair		0.018095745121%
	Belleair Beach		0.004261560686%
	Belleair Bluffs		0.007502670965%
	Belleair Shore		0.000439411029%

	Clearwater		0.633863120196%
	Dunedin		0.102440873796%
	Gulfport		0.047893986460%
	Indian Rocks Beach		0.008953453662%
	Indian Shores		0.011323004874%
	Kenneth City		0.017454786058%
	Largo		0.374192990777%
	Madeira Beach		0.022616957779%
	North Reddington Beach		0.003820333909%
	Oldsmar		0.039421706033%
	Pinellas Park		0.251666311991%
	Redington Beach		0.003611522882%
	Redington Shores		0.006451352841%
	Safety Harbor		0.038061710740%
	Seminole		0.095248695748%
	South Pasadena		0.029968921656%
	St. Pete Beach		0.071791046619%
	St. Petersburg		1.456593090134%
	Tarpon Springs		0.101970595050%
	Treasure Island		0.040652783215%
Polk		2.150483025298%	
	Polk County		1.558049828484%
	Auburndale		0.028636162584%
	Bartow		0.043971970660%
	Davenport		0.005305615818%
	Dundee		0.005597951255%
	Eagle Lake		0.002580177987%
	Fort Meade		0.007702403251%
	Frostproof		0.005857603227%
	Haines City		0.047984773863%
	Highland Park		0.000063551182%
	Hillcrest Heights		0.000005447244%
	Lake Alfred		0.007489960729%
	Lake Hamilton		0.002540231530%
	Lakeland		0.294875668468%

	Lake Wales		0.036293172134%
	Mulberry		0.005414560702%
	Polk City		0.001080370093%
	Winter Haven		0.097033576087%
Putnam		0.384893194068%	
	Putnam County		0.329225990182%
	Crescent City		0.005561636294%
	Interlachen		0.001877483489%
	Palatka		0.046955244716%
	Pomona Park		0.000379491344%
	Welaka		0.000893348043%
Santa Rosa		0.701267319513%	
	Santa Rosa County		0.592523984216%
	Gulf Breeze		0.061951507906%
	Jay		0.000159785829%
	Milton		0.046632041562%
Sarasota		2.805043857579%	
	Sarasota County		1.924315263251%
	Longboat Key		0.044489458856%
	North Port		0.209611771277%
	Sarasota		0.484279979635%
	Venice		0.142347384560%
Seminole		2.141148264544%	
	Seminole County		1.508694164839%
	Altamonte Springs		0.081305566430%
	Casselberry		0.080034542791%
	Lake Mary		0.079767627827%
	Longwood		0.061710013415%
	Oviedo		0.103130858057%
	Sanford		0.164243490362%
	Winter Springs		0.062262000824%
St. Johns		0.710333349554%	
	St. Johns County		0.656334818131%
	Hastings		0.000010894488%
	Marineland		0.000000000000%

	St. Augustine		0.046510386442%
	St. Augustine Beach		0.007477250493%
St. Lucie		1.506627843552%	
	St. Lucie County		0.956156584302%
	Fort Pierce		0.159535255654%
	Port St. Lucie		0.390803453989%
	St. Lucie Village		0.000132549608%
Sumter		0.326398870459%	
	Sumter County		0.302273026046%
	Bushnell		0.006607507174%
	Center Hill		0.001312785844%
	Coleman		0.000748088199%
	Webster		0.001423546476%
	Wildwood		0.014033916721%
Suwannee		0.191014879692%	
	Suwannee County		0.161027800555%
	Branford		0.000929663004%
	Live Oak		0.029057416132%
Taylor		0.092181897282%	
	Taylor County		0.069969851319%
	Perry		0.022212045963%
Union		0.065156303224%	
	Union County		0.063629259109%
	Lake Butler		0.001398126003%
	Raiford		0.000012710236%
	Worthington Springs		0.000116207876%
Volusia		3.130329674480%	
	Volusia County		1.708575342287%
	Daytona Beach		0.447556475212%
	Daytona Beach Shores		0.039743093439%
	DeBary		0.035283616215%
	DeLand		0.098983689498%
	Deltona		0.199329190038%
	Edgewater		0.058042202343%
	Flagler Beach		0.000223337011%

	Holly Hill		0.031615805143%
	Lake Helen		0.004918861482%
	New Smyrna Beach		0.104065968306%
	Oak Hill		0.004820811087%
	Orange City		0.033562287058%
	Ormond Beach		0.114644516477%
	Pierson		0.002333236251%
	Ponce Inlet		0.023813535748%
	Port Orange		0.177596501562%
	South Daytona		0.045221205323%
Wakulla		0.115129321208%	
	Wakulla County		0.114953193647%
	Sopchoppy		0.000107129135%
	St. Marks		0.000068998426%
Walton		0.268558216151%	
	Walton County		0.224268489581%
	DeFuniak Springs		0.017057137234%
	Freeport		0.003290135477%
	Paxton		0.023942453860%
Washington		0.120124444109%	
	Washington County		0.104908475404%
	Caryville		0.001401757499%
	Chipley		0.012550450560%
	Ebro		0.000221521263%
	Vernon		0.000361333863%
	Wausau		0.000680905521%
		100.00%	100.00%

Exhibit J

**MECHANISM BY WHICH QUALIFIED SETTLEMENT FUND ADMINISTRATOR IS
TO ALLOCATE, APPORTION AND DISTRIBUTE PAYMENTS**

[TO BE ADDED]

Exhibit D [CLIENT STILL REVIEWING]**Subdivision Settlement Participation Form**

Governmental Entity:	State:
Authorized Official:	
Address 1:	
Address 2:	
City, State, Zip:	
Phone:	
Email:	

The governmental entity identified above (“*Governmental Entity*”), in order to obtain and in consideration for the benefits provided to the Governmental Entity pursuant to the Settlement Agreement dated January 15, 2022 (“*Endo Settlement*”), and acting through the undersigned authorized official, hereby elects to participate in the Endo Settlement, release all Released Claims against all Releasees, and agrees as follows.

1. The Governmental Entity is aware of and has reviewed the Endo Settlement, understands that all terms in this Subdivision Settlement Participation Form have the meanings defined therein, and agrees that by signing this Subdivision Settlement Participation Form, the Governmental Entity elects to participate in the Endo Settlement and become a Participating Subdivision as provided therein.
2. The Governmental Entity shall immediately cease any and all litigation activities as to the Releasees and Released Claims and, within the later of 7 days following the entry of the Consent Judgment or 7 days of the Execution Date of this Subdivision Settlement Participation Form voluntarily dismiss with prejudice any Released Claims that it has filed.
3. The Governmental Entity agrees to the terms of the Endo Settlement pertaining to Subdivisions as defined therein.
4. By agreeing to the terms of the Endo Settlement and expressly agreeing to the releases provided for therein, the Governmental Entity is entitled to the benefits provided therein, including, if applicable, monetary payments beginning after the Effective Date of the Agreement.
5. The Governmental Entity agrees to use any monies it receives through the Endo Settlement solely for the purposes provided therein.
6. The Governmental Entity submits to the jurisdiction of the Court for purposes limited to the Court’s role as provided in, and for resolving disputes to the extent provided in, the Endo Settlement.

7. The Governmental Entity has the right to enforce those rights given to them in the Endo Settlement.
8. The Governmental Entity, as a Participating Subdivision, hereby becomes a Releasor for all purposes in the Endo Settlement, including, but not limited to, all provisions of Section **D** and **E**, and along with all departments, agencies, divisions, boards, commissions, districts, instrumentalities of any kind and attorneys, and any person in their official capacity elected or appointed to serve any of the foregoing and any agency, person, or other entity claiming by or through any of the foregoing, and any other entity identified in the definition of Releasor, provides for a release to the fullest extent of its authority. As a Releasor, the Governmental Entity hereby absolutely, unconditionally, and irrevocably covenants not to bring, file, or claim, or to cause, assist or permit to be brought, filed, or claimed, or to otherwise seek to establish liability for any Released Claims against any Releasee in any forum whatsoever. The releases provided for in the Endo Settlement are intended by the Parties to be broad and shall be interpreted so as to give the Releasees the broadest possible bar against any liability relating in any way to Released Claims and extend to the full extent of the power of the Governmental Entity to release Claims. The Endo Settlement shall be a complete bar to any Released Claim.
9. The Governmental Entity hereby takes on all rights and obligations of a Participating Subdivision as set forth in the Endo Settlement.
10. In connection with the releases provided for in the Endo Settlement, each Governmental Entity expressly waives, releases, and forever discharges any and all provisions, rights, and benefits conferred by any law of any state or territory of the United States or other jurisdiction, or principle of common law, which is similar, comparable, or equivalent to § 1542 of the California Civil Code, which reads:

General Release; extent. A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release, and that if known by him or her would have materially affected his or her settlement with the debtor or released party.

A Releasor may hereafter discover facts other than or different from those which it knows, believes, or assumes to be true with respect to the Released Claims, but each Governmental Entity hereby expressly waives and fully, finally, and forever settles, releases and discharges, upon the Effective Date of the Release, any and all Released Claims that may exist as of such date but which Releasors do not know or suspect to exist, whether through ignorance, oversight, error, negligence or through no fault whatsoever, and which, if known, would materially affect the Governmental Entities' decision to participate in the Endo Settlement.

11. Nothing herein is intended to modify in any way the terms of the Endo Settlement, to which the Governmental Entity hereby agrees. To the extent this Subdivision Settlement

Participation Form is interpreted differently from the Endo Settlement in any respect, the Endo Settlement controls.

I have all necessary power and authorization to execute this Subdivision Settlement Participation Form on behalf of the Governmental Entity.

Signature: _____

Name: _____

Title: _____

Date: _____

(the "Execution Date of this Subdivision Settlement Participation Form")



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1065

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the submission of a request for inclusion to the Clean Water State Revolving Fund Loan Program for the construction of a new reclaimed water main in conjunction with the SW 10th Street Connector Improvements Project; providing for an effective date. (Funds from Account #413-5000-536-60-31 - Utilities - Improvements Other than Buildings)

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: \$12,120,000 (State Revolving Fund Loan)

Account Name: Utilities - Improvements Other than Buildings

Account Number: 413-5000-536-60-31

Background/History

The City is making the Request for Inclusion to the Clean Water State Revolving Fund to install a reclaimed water line in conjunction with proposed improvements to SW 10th Street by the Florida Department of Transportation ("FDOT"). The City does not currently own or operate any treatment facilities for reclaimed water production or distribution. The reconstruction of this corridor affords a unique opportunity to install this new infrastructure with the proposed SW 10th Street Connector Project. FDOT will design, construct, and permit these improvements. The City is currently negotiating with FDOT on several aspects of the 10th Street project, including funding for this reclaimed water project. Those negotiations are on-going. However, to maintain the current timeline of commitments for this project, a State Revolving Fund Loan awarded to the City would be an alternative if FDOT does not commit to funding the reclaimed line.

The City believes FDOT does have the ability to fund and construct the reclaimed line as a reliable water source and means of irrigation for FDOT installed landscaping and irrigation supply associated with the SW 10th St. project, because the FDOT Design Manual regarding Landscape Design, Section 228.2(3) provides for irrigation system design requirements and includes "conservation of water; e.g., control system technologies including SMART irrigation technologies, reclaimed and reuse sources."

The City has also identified the need to develop reclaimed water infrastructure as an alternative in applications such as irrigation to conserve raw water sources and offset increasing potable water demands. Reclaimed water, also known as "purple pipe" is water recovered from domestic,

municipal, or industrial wastewater treatment facilities that has been given a high degree of treatment and deemed safe for many non-potable water needs. The use of reclaimed water has been employed as a water conservation practice in Florida and other states for many years.

The ability to reuse water has positive benefits for improved agricultural production; reduced energy consumption associated with production, treatment, and distribution of water; and significant environmental benefits, such as reduced nutrient loads for receiving water due to reuse of the treated wastewater. The current drivers for the implementation of a reclaimed system are to address urbanization and water supply scarcity, achieving efficient resource use, and for protection of the environment and public health.

Current Activity

To apply for the State Revolving Fund, the City must first complete and submit a Request for Inclusion form to be included on the priority list. The Request for Inclusion needs to be submitted with an attached resolution by the City's governing board, and a Planning Document that justifies the needs and environmental and economic impacts and benefits of the project with cost comparisons of alternatives. This Planning Document is currently in draft form and will be submitted by the end of February with the application. In the Planning Document, the environmental and economic benefits of this water conservation in practice, which reduces the cost for treatment and securing new water resources as potable water demand increases, are explored. The plan documents the unique opportunity afforded by the reconstruction of SW 10th Street as the City's (or FDOT's) lowest cost solution for implementation of this infrastructure as well as the extensive environmental analysis and public participation already conducted by FDOT for the impact of the proposed corridor construction. Finally, as part of the application process, the capital strategy to ensure revenue for loan repayment is documented.

Upon submission of the Request for Inclusion, the project will be reviewed for eligibility and scored for placement on the State Revolving Fund Clean Water Program's (the "Program") priority list at an FDEP public quarterly meeting. The City's Request for Inclusion will likely be scored at the May meeting, which is the State's last meeting in FY 2022 (State's Fiscal Year). The loan application process begins upon inclusion on the priority list. Projects are funded in order of their priority score until program funds are exhausted.

The majority of current loans through the Program are at a 0% interest rate. Loan terms are generally 20 years and repayment begins six months after project completion and semi-annually thereafter.

Recommendation

It is recommended the City Commission of the City of Deerfield Beach approve an application to the Clean Water State Revolving Fund Loan Program for the construction of a new reclaimed water main in conjunction with SW 10th Street Connector Improvements.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE SUBMISSION OF A REQUEST FOR INCLUSION TO THE CLEAN WATER STATE REVOLVING FUND LOAN PROGRAM FOR THE CONSTRUCTION OF A NEW RECLAIMED WATER MAIN IN CONJUNCTION WITH THE SW 10TH STREET CONNECTOR IMPROVEMENTS PROJECT; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Clean Water State Revolving Fund (“CWSRF”) Program provides low-interest loans to local governments to plan, design, and build or upgrade wastewater, stormwater, and nonpoint source pollution prevention projects; and

WHEREAS, the City does not currently own or operate any treatment facilities for reclaimed water production or distribution; and

WHEREAS, the City has identified the need to consider reclaimed water as an alternative to offset the high cost of securing new raw water sources and to meet increasing potable water demands that could exceed the City's permitted extraction capacity; and

WHEREAS, staff is recommending the City submit a Request for Inclusion to the CWSRF for the installation of a reclaimed water line (“RFI”) in conjunction with the proposed Florida Department of Transportation (“FDOT”) improvements to SW 10th Street (the “FDOT Project”); and

WHEREAS, the FDOT Project affords the City a unique opportunity to partner with FDOT for the installation a reclaimed water line; and

WHEREAS, staff recommends the City Commission approve the submission of the RFI to the CWSRF for the installation of a reclaimed water line.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the submission of the RFI to the CWSRF for the installation of a reclaimed water line in connection with the FDOT Project. The City Manager is authorized to sign and submit the RFI to CWSRF.

Section 3. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 4. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

The following is a list of planning requirements for CWSRF approval of the planning document or facilities plan. The basis for these requirements is Rule 62-503.700(2) or Rule 62-505.751, F.A.C.

General

- Sufficient illustrative detail of the local area to:
 - Identify where the project or activity is located.
 - Confirm the service area census tracts
- A description of the existing and recommended facilities, estimated capital costs, estimated operation and maintenance costs, and repair and replacement costs, if applicable.
- The need or justification for the project.
- The environmental and economic impacts and benefits of the project.
- For projects that include new collection areas, state the number of existing septic tanks to be eliminated.
- For reuse projects, provide the quantity of water to be conserved provided.
- Planning document signed and sealed by a professional engineer.

Cost Comparison and Selected Alternative

- A cost comparison of at least three alternatives – no action is an alternative.
- A discussion of the various factors that affected the decision-making process that lead to the “selected alternative” and a rationale for selecting that alternative.
- A project cost breakdown with the total cost reflective of the data used in the cost comparison.

Cost and Effectiveness Analysis

- A cost and effectiveness analysis of the processes, materials, techniques, and technologies for carrying out the proposed project.
- Does the selected alternative maximize the potential for water and energy efficiency considering the cost of constructing, operating and maintaining, and replacing the project or activity, as necessary? If not, please provide explanation.

Environmental Review - An environmental review is required for each project to be funded. This review includes the preparation and publication of an Environmental Information Document (EID) by DEP staff.

- A list of threatened, endangered, proposed, and candidate species and designated critical habitats that may be present in the project area (may be obtained from U.S. Fish & Wildlife Service).
- A discussion of any significant adverse effects upon flora, fauna, threatened or endangered plant or animal species, surface water bodies, prime agricultural lands, wetlands, or undisturbed natural areas.
- A discussion of any significant adverse human health or environmental effects on minority or low-income communities.
- List any significant adverse environmental effects and what project features will mitigate such effects.

Public Participation

- Evidence that a public meeting was held to explain the proposed project, the capital cost and the long term financial impact on the customers, including a discussion whether the public participated in evaluating the project alternatives.
- Copies of the public meeting Notice that was provided at least 14 days in advance of the meeting (or greater as required by local rules) and the minutes of that public meeting,

Financial Feasibility

- A completed capital financing plan worksheet signed by the chief financial officer or the authorized representative.
- The proposed system of charges, rates, fees, and other collections that will generate the revenues to be dedicated to loan repayment (e.g. user charge rates).
- A Fiscal Sustainability Plan or Asset Management Plan or certification that a fiscal sustainability plan was developed and is being implemented.

Project Implementation

- List any proposed service agreements or local contracts necessary to implement the selected alternative and describe the status of each agreement or contract.
- List any DEP permits needed to implement the selected alternative and the status of the permit(s).



SRF Construction Loan Process

Start Here ↘

Request for Inclusion Form

Planning Document

Agency Reviews
(USFWS, USDA, DEP, DOT,
WMD, etc.)

Environmental
Information Document
DEP Writes

Readiness-to-Proceed

Priority List Public Meeting
DEP Holds

Loan Agreement Application

Loan Agreement

Disbursement Requests
(invoices required)





Florida Department of Environmental Protection

REQUEST FOR INCLUSION ON THE CWSRF PRIORITY LIST

Clean Water State Revolving Fund Loan Program
3900 Commonwealth Blvd., MS 3505, Tallahassee, FL 32399-3000

Process to receive a State Revolving Fund (SRF) Loan. The Request for Inclusion (RFI) form, 62-503.900(1), lets us know that you are interested in obtaining a SRF loan. Each RFI will be assigned a project engineer to assist you throughout the SRF funding process. The information contained in the RFI is used to determine a priority score for your project; and the priority score is used to rank projects on the SRF priority list. Only projects ranked on the fundable portion of the priority list will receive consideration for a loan. Your project engineer will assist you in understanding all program requirements necessary before you are asked to submit a loan application, forms 62-503.900(2) or 62-503.900(3). Please note that project costs incurred before a SRF loan agreement is executed or an authorization to incur costs is provided are ineligible for reimbursement.

Project Number:

(Filled in by DEP)

Type of loan applying for:

Planning ☐

Inflow/Infiltration Rehabilitation ☐

Design ☐

Construction ☐

1. Applicant's Name and Address Project

Sponsor:

Contact Person:

(street address)

(city)

(county)

(state)

(zip code)

(telephone)

(ext.)

(FAX)

(email address)

Contact Person Address (if different):

(street address)

(city)

(state)

(zip code)

2. Name and Address of Applicant's Consultant (if any).

Firm:

Contact Person:

(street address)

(city)

(state)

(zip code)

(telephone)

(ext.)

(FAX)

(email address)

3. Certification by Authorized Representative: I certify that this form and attachments have been completed by me or at my direction and that the information presented herein is, to the best of my knowledge, accurate.

(email address)

(date)

(name, typed)

(title)

(signature)

4. Eligible Projects.

- a. Stormwater management facilities, such as detention/retention facilities, treatment facilities, etc. sponsored by a local government (eligible under Section 212 of the amended Clean Water Act).
- b. Wastewater management facilities, such as sewers, pump stations, treatment plants, reuse facilities, sludge facilities, etc. sponsored by a local government (eligible under Section 212 of the amended Clean Water Act).
- c. Nonpoint source pollution control best management practices for agriculture, silvaculture, on-site treatment and disposal, wetlands, mining, marinas, brownfields or groundwater protection sponsored by any entity (eligible under Section 319 or 320 of the amended Clean Water Act).

5. Project Information (Please attach).

Describe the project, its location, the scope, why it's needed and the environmental benefit.

Attach maps showing system boundaries, existing and proposed service area, and project area.

6. Estimated Costs (Clean Water Act Section 212, 319, and 320).

- | | |
|---|-------------|
| a. Planning and/or SSES | _____ |
| b. Design | _____ |
| c. Special Studies | _____ |
| d. *Eligible Land | _____ |
| e. Construction, Equipment, Materials, Demolition and Related Procurement | _____ |
| f. Construction Contingency (10% of Item e) | _____ |
| g. Technical Services during Construction | _____ |
| h. Sum of Items a. through g. | <u>\$ 0</u> |

*Funding shall be limited to the fair market value of the acreage of land necessary for and integral to the treatment process, including the zone of discharge. If additional land is purchased, the eligible amount shall be the acreage of land necessary for treatment divided by the total area purchased times the purchase price.

7. Project Schedule. (Month and Year)

- | | |
|---|-------|
| Submit the planning or SSES documentation | _____ |
| Submit the design documents, obtain permits, and acquire sites (as necessary) | _____ |
| Start activity (such as construction or non-structural best management practice) | _____ |
| Complete activity (such as construction or non-structural best management practice) | _____ |

8. Population

- | | |
|--|-------|
| Population served by the system | _____ |
| Population to be served by the project | _____ |

9. Project Priority

- a. Baseline Priority Categorization.

Identify the category score(s) and construction costs(s) for which the project qualifies. The baseline priority score (BPS) shall be determined by prorating each component.

Project Component	Priority Points	Component Construction Cost
1. Eliminate a documented acute or chronic public health hazard. Examples: Elimination of failing septic tanks or failing package plants or elimination of sanitary sewer overflows.	500 points	_____
2. Implement a project included in, or to be implemented as a direct result of, an adopted Basin Management Action Plan or a Reasonable Assurance Plan approved pursuant to section 403.067, F.S.	450 points	_____
3. Protect surface or ground water by reducing a documented source of pollution, pollution reductions necessary to meet regulatory requirements, or repairs by local governments or on-site system management entities, under section 319 of the Act, that correct septic tank failures in springsheds of first-magnitude springs.	400 points	_____
4. Address a compliance problem documented in an enforcement action where the Department has issued a notice of violation or entered into a consent order with the project sponsor.	375 points	_____
5. Meet the criteria for Innovative/Alternative; correct excessive inflow/infiltration, scheduled rehabilitation, replacement; repair described in an approved asset management plan; or reuse that replaces an existing or proposed demand on a water supply.	350 points	_____
6. Planning and design loans and rehabilitation, replacement or repair not included in an approved asset management plan.	340 points	_____
7. Projects that construct other reclaimed water systems or residuals reuse that do not meet the criteria of component 5. above.	300 points	_____
8. Ensure compliance with other enforceable standards or requirements.	200 points	_____
9. Timely submitted projects that otherwise meet the requirements of the Act.	100 points	_____

b. Restoration and Protection of Special Water Bodies.

In order to qualify for a base score multiplier, identify which of the water bodies listed below that the project will assist in restoring or protecting and reference the location in existing documentation where substantiating information may be found or attach other such substantiating information. If none are selected, the multiplier equals 1.0. If one or more are selected, the multiplier is 1.2.

A priority water body identified in an adopted Surface Water Improvement and Management (SWIM) Plan.

A water body classified as Outstanding Florida Waters.

A water body classified as Wild and Scenic Rivers.

A water body located in a priority watershed established under the Unified Watershed Assessment Program.

☐
☐
☐
☐

c. Projects that document any of the following shall have bonus points added to the priority score after the adjustment under paragraph (a) above, as indicated.

- | | | |
|--|-----------|--------------------------|
| 1. Elimination of Ocean Outfalls | 15 points | ☐ |
| 2. Projects that demonstrate consistency with a Water Resource Management plan | 15 points | ☐ |

Return the completed form to the State Revolving Fund Program, 3900 Commonwealth Blvd., MS 3505, Tallahassee, Florida, 32399-3000. The form may be scanned and emailed to SRF_Reporting@dep.state.fl.us or may be sent by FAX to (850) 245-2857.



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1062

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an Interlocal Agreement with Broward County for the Surtax-Funded Municipal Transportation Project: Rehabilitation and Repair of the SE 13th Avenue Bridge over Tern Waterway (BC-DFBEACH FY2020-00001); providing for execution and an effective date. (Funds from Account #108-5050-541-60-31 - Improvements Other than Buildings)

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: \$749,890 in Surtax funding.

Account Name: Improvements Other than Buildings

Account Number: 108-5050-541-60-31

Background/History

In November 2018, Broward County voters approved a 30-year sales surtax to fund transportation expenditures. On June 18, 2020, the County Commission approved the top 40 ranked rehabilitation and maintenance projects, including the City's project: BC-DFBeach-FY2020-00001, Bridge Rehabilitation and Repair at the SE 13 Avenue Bridge over the Tern Waterway. Rehabilitation and repair of the SE 13th Avenue bridge over the Tern Waterway ("Project") entails repairing spalled/delaminated concrete beams and seawalls at the bridge location; sealing existing cracks; removing existing traffic railing at each side of the bridge and installing vertical face retrofit traffic railing per FDOT standards; installing guardrail anchorage transition and end treatment per FDOT standards; removing existing approach guardrails at the four corners of the bridge and installing guardrail anchorage transition and end treatment per FDOT standards; and installing new approach slabs and expansion joints as specified in the signed and sealed construction documents dated September 23, 2021.

Current Activity

The scope of services and complete construction documents were submitted to the County Attorney's Office. The project Interlocal Agreement was negotiated and approved as to form by both County and City Attorneys. When the City Commission approves execution of this agreement, and it is fully executed by the City and the County, then funding will be advanced based on the specific project contract terms.

Recommendation

Approval of the Interlocal Agreement between Broward County and the City of Deerfield Beach for Surtax-Funded Municipal Transportation Project: Rehabilitation and Repair of the SE 13 Avenue Bridge over Tern Waterway (BC-DFBeach FY 2020-00001).

RESOLUTION NO. 2022/

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF
DEERFIELD BEACH, FLORIDA, APPROVING AN INTERLOCAL
AGREEMENT WITH BROWARD COUNTY FOR THE SURTAX-
FUNDED MUNICIPAL TRANSPORTATION PROJECT:
REHABILITATION AND REPAIR OF THE SE 13TH AVENUE BRIDGE
OVER TERN WATERWAY (BC-DFBEACH FY 2020-00001); PROVIDING
FOR EXECUTION AND AN EFFECTIVE DATE**

WHEREAS, in November 2018, Broward County voters approved a 30-year sales surtax known as the “Penny for Transportation” to fund statutorily permissible transportation expenditures (the “Transportation Surtax”); and

WHEREAS, Broward County (the “County”), the Broward Metropolitan Planning Organization (the “MPO”), and other Broward municipalities (the “Municipalities”) entered into the Transportation System Surtax Interlocal Agreement (the “Surtax ILA”) to provide the process for the Municipalities to submit projects for evaluation and funding with Transportation Surtax proceeds; and

WHEREAS, BC-DFBeach-FY2020-00001, Bridge Rehabilitation and Repair at the SE 13 Avenue Bridge over the Tern Waterway (the “Project”) entails repairing spalled/delaminated concrete beams and seawalls at the bridge location; sealing existing cracks; removing existing traffic railing at each side of the bridge and installing vertical face retrofit traffic railing per FDOT standards; installing guardrail anchorage transition and end treatment per FDOT standards; removing existing approach guardrails at the four corners of the bridge and installing guardrail anchorage transition and end treatment per FDOT standards; and installing new approach slabs and expansion joints as specified in the signed and sealed construction documents dated September 23, 2021; and

WHEREAS, the Surtax ILA establishes a process in which surtax funded staff at the County prioritize municipal rehabilitation and maintenance projects, and make recommendations for funding; and

WHEREAS, on June 18, 2020, the County Commission approved the top 40 ranked rehabilitation and maintenance projects, including the Project for an amount not to exceed \$749,890; and

WHEREAS, pursuant to the Surtax ILA, in order to receive funding, execution of an interlocal agreement with the County for Surtax-Funded Municipal Transportation Projects (the “Project ILA”) is required; and

WHEREAS, the purpose of the Project ILA is to set forth the terms and conditions for the County to provide Transportation Surtax funding for the Project and the terms and conditions for City to complete the Project; and

WHEREAS, the City Commission finds it in the best interest of the City to approve the Project ILA with the County for Transportation Surtax funding in an amount not to exceed \$749,890 for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The Project ILA with the County, attached as Exhibit “A,” for Transportation Surtax funding in an amount not to exceed \$749,890 for the Project is hereby approved.

Section 3. The City Manager is authorized to execute the Project ILA with the County, attached as Exhibit “A,” together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption

PASSED AND ADOPTED THIS _____ DAY OF _____, 2022.

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK



**INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF DEERFIELD BEACH
FOR SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT: REHABILITATION AND REPAIR
OF THE SE 13TH AVENUE BRIDGE OVER TERN WATERWAY (BC-DFBEACH FY2020-00001)**

This Interlocal Agreement ("Agreement") is made and entered by and between Broward County, a political subdivision of the State of Florida ("County"), and the City of Deerfield Beach, a municipality of the State of Florida ("Municipality") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. In November 2018, Broward County voters approved a 30-year sales surtax (also known as "Penny for Transportation") to fund statutorily-permissible transportation expenditures.

B. All projects, County, State, and municipal, funded by the transportation surtax are evaluated for eligibility under Section 212.055(1), Florida Statutes, by the independent Transportation Surtax Oversight Board before the Broward County Board of County Commissioners makes the final decisions regarding project funding.

C. A process has been established pursuant to which surtax-funded staff at the Broward Metropolitan Planning Organization ("MPO") prioritize municipal projects, with the exception of municipal rehabilitation and maintenance projects, and make recommendations for funding. The first round of ranking of municipal capital projects was recently completed by the MPO following extensive and detailed discussions with the submitting municipalities, and the Project contemplated in this Agreement was included in that review and ranking.

D. The municipal Project defined herein has been determined statutorily eligible for funding and subsequently approved for funding by the Broward County Board of County Commissioners.

E. The purpose of this Agreement is to set forth the terms and conditions for County to provide transportation surtax funding for the Project and the terms and conditions for Municipality to complete the Project. Municipality will implement the Project, as funded by County with surtax funding, in accordance with the terms of this Agreement.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1. **Board** means the Board of County Commissioners of Broward County, Florida.

1.2. **Contract Administrator** means the County Administrator or such other person designated by the County Administrator in writing.

- 1.3. **Contractor** means the persons, firms, or corporations with whom Municipality has or will contract for the performance of the Project.
- 1.4. **Consultant** means the architect or engineer with whom Municipality has or will contract to provide programming, design, construction management, engineering, and inspection, or other professional services for the Project.
- 1.5. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.
- 1.6. **Maximum Funding Amount** means the maximum funding amount stated in Section 5.4.
- 1.7. **Oversight Board** means the independent Transportation Surtax Oversight Board created pursuant to Section 31½-75 of the Broward County Code of Ordinances.
- 1.8. **Project** means the project described in Exhibit A.
- 1.9. **Project Manager** means Priscilla Cygielnik, P.E., Director of Environmental Services.
- 1.10. **Subcontractor** means an entity or individual providing services to Municipality through Contractor or Consultant for all or any portion of the Project. The term “Subcontractor” includes subconsultants.
- 1.11. **Surety** means the surety company or individual that is bound by the performance bond and payment bond and that is responsible for Contractor’s or Consultant’s acceptable and timely performance and completion of the Project under this Agreement and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.
- 1.12. **Surtax-Funded Projects** means any project, including without limitation the Project described in Exhibit A, that is funded in whole or in part by the transportation surtax collected pursuant to Section 212.055(1), Florida Statutes.

ARTICLE 2. EXHIBITS

Exhibit A	Project Description and Project Schedule
Exhibit B	Funding Schedule
Exhibit C	Reporting Requirements
Exhibit D	Form Contracts
Exhibit E	Municipal Resolution Authorizing Execution of Agreement

ARTICLE 3. PROJECT DESCRIPTION; COMPETITIVE PROCUREMENT; PERMITTING

- 3.1. Project Description and Project Schedule. Municipality shall perform, or cause to be performed, the Project in accordance with the Project Description and the Project Schedule set forth in **Exhibit A**. The Project Description is a general description of the Project and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and

tasks that are such an inseparable part of the Project described that exclusion of any of them would be impractical, illogical, or unconscionable.

3.2. Municipal Responsibility for the Project. Municipality is solely responsible for the Project, subject to the terms of this Agreement. County has no responsibility for the construction means, methods, techniques, sequences, or procedures employed in the performance of the Project. Municipality shall be solely responsible for retention, supervision, and payment of Contractor, Consultant, and all Subcontractors. Municipality shall be solely responsible for securing any and all property rights or permits required by the Project. Nothing in this Agreement shall impose on County an obligation to assume any contract or subcontract, or to make payment to Contractor, Consultant, or any Subcontractor, vendor, or supplier, or to perform the Project or any portion thereof, or to supply any goods or services for the Project. Further, nothing contained herein shall create any contractual relationship between County and Contractor, Consultant, or any Subcontractor, vendor, or supplier.

3.3. Competitive Procurement; Consultants' Competitive Negotiation Act. Except to the extent the Contract Administrator has approved utilization of an existing contract by Municipality for the services to be performed by Contractor or Consultant, Municipality must provide the proposed solicitation(s) for the Project to the Contract Administrator for review at least twenty (20) days prior to publication of the solicitation by Municipality. County's review shall include, without limitation, determination of the applicable CBE Goal (as defined in Article 10), which must be included by Municipality in the solicitation(s). If Municipality seeks to utilize an existing contract for the services to be performed by the Contractor or Consultant, Municipality must obtain prior approval by County and must provide the Contract Administrator with the proposed contract and supporting documentation for consideration pursuant to the procedures stated in Section 3.5.2; County may require, as a condition for its approval, that the engagement of Contractor or Consultant for this Project utilizing an existing municipal contract include modifications or additions to the existing contract terms and conditions, including without limitation any provision identified in Section 3.5.3. Municipality must comply with all applicable provisions of state law including, as applicable, Section 255.20 and Section 287.055, Florida Statutes, in the procurement of any services or materials relating to the Project. If any applicable state or federal procurement requirement is stricter than any other applicable requirement, Municipality shall be obligated to meet the stricter requirement. Prior to the execution of any contract with Contractor or Consultant relating to the Project, Project Manager shall certify in writing to the Contract Administrator that the procurement and the proposed contract comply with the requirements of this Section 3.3.

3.4. Modifications to Project or Phases.

3.4.1. Material Changes to the Project. Material changes are changes that increase the Maximum Funding Amount or materially modify the Project Description. Any proposed material change to the Project Description that does not increase the Maximum Funding Amount requires the prior written approval of the Contract Administrator. Any proposed material change that would increase the Maximum Funding Amount requires an

amendment of this Agreement. Any proposed material change may also, if determined necessary by Contract Administrator pursuant to the applicable contractual, statutory, or other surtax-related requirements, require review by the Oversight Board for statutory eligibility. Municipality shall submit to the Contract Administrator written notice of the proposed material change and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove in writing the proposed material change to the Project Description that does not increase the Maximum Funding Amount within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely approved, the request shall be deemed disapproved. Any material change that increases the Maximum Funding Amount must be approved by the Board.

3.4.2. Modifications to Construction Phase. Requests for additional funding as a result of modifications to the construction phase of a Project that exceed the amount provided in the then-current Funding Schedule, including without limitation change orders or other scope changes, are subject to (i) approval by the Contract Administrator, and (ii) the Board's allocation of additional funding; such requests may also, if determined necessary by Contract Administrator pursuant to the applicable contractual, statutory, or other surtax-related requirements, require additional review by the Oversight Board for statutory eligibility. Municipality shall submit to the Contract Administrator written notice of its request for additional funding and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove the request in writing within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely approved, the request shall be deemed disapproved.

3.4.3. Owner Enhancements. In addition to any approvals that may be required pursuant to this Agreement, any increased or additional costs due to changes in the quality of materials, furnishings, finishes, aesthetics, or any other cost reasonably determined by the Contract Administrator to be an "owner enhancement" (including, without limitation, decorative lighting, decorative paving, and improvements that are not within the public right of way) must be funded solely by Municipality with non-surtax funding, and County shall have no funding responsibility for any such increased costs. Upon the Contract Administrator's request, the Project Manager shall provide sufficient detail for the Contract Administrator's determination of whether any increased or additional costs include owner enhancements. The Contract Administrator shall determine, after consultation with the Project Manager, whether the increased or additional costs constitute owner enhancements.

3.4.4. Project Schedule. Any proposed change in the Project Schedule that modifies the commencement or completion date for any phase or for the Project by more than sixty

(60) days requires the prior written approval of the Contract Administrator. Municipality shall submit to the Contract Administrator written notice of the proposed change and appropriate backup documentation; if requested by the Contract Administrator, Municipality shall provide any additional requested backup documentation. The Contract Administrator will either approve or disapprove in writing the proposed change within fifteen (15) calendar days after receipt of the written notice and all requested backup documentation; if not timely disapproved, the request shall be deemed approved.

3.4.5. Nonmaterial Changes. Nonmaterial changes to the Project (namely, changes that do not require approvals under Sections 3.4.1, 3.4.2, 3.4.3, or 3.4.4) do not require County approval and may be approved by the Project Manager.

3.5. Contractor and Consultant Contracts.

3.5.1. Form Contracts. County has preapproved the Surtax-Funded Projects Form Construction Contract and the Surtax-Funded Projects Form Consultant Contract (collectively, the “**Form Contracts**”) attached as **Exhibit D**, which Municipality may utilize for its contracts with Contractor and Consultant, respectively. County may update the Form Contracts from time to time upon written notice to Municipality, and such updated Form Contracts shall be the applicable forms for solicitations advertised after the date of such written notice by County.

3.5.2. County Approval. Unless the Form Contracts are utilized for the Project with no material modification or an existing municipal contract is approved by County for use pursuant to Section 3.3, Municipality must obtain written approval from the County Attorney’s Office for Municipality’s contract(s) with Contractor and with Consultant prior to utilization of the contracts for the Project (and prior to publication of the solicitation, if the contract is included in the solicitation). In addition to the provisions required to be included in Municipality’s contracts with Contractor and with Consultant pursuant to Section 8.1 or Section 10.5, Municipality’s contracts must also include the provisions listed in Section 3.5.3 and Section 3.5.4, as applicable, in the form stated in the Form Contracts. Any material modification to any required contractual provision must be approved in advance by the County Attorney’s Office; no subsequent material change to the contract(s) for the Project may be made without written approval from the County Attorney’s Office. Municipality agrees and acknowledges that County’s approval of any contracts with Contractor or Consultant, including without limitation the Form Contracts, is solely for purposes of protecting County’s interests; County approval of any such contract does not constitute a legal opinion, including without limitation as to the legal sufficiency of the contract, for use or reliance by Municipality or any third party and shall not be the basis for any claim or liability against County or asserted to avoid any reimbursement or other obligation of Municipality under this Agreement. Municipality shall provide at least twenty (20) days’ written notification to the Contract Administrator and the County Attorney’s Office prior to award of the contract to Contractor or Consultant, as applicable, which notice must include a copy of the competitive solicitation

(or other applicable procurement document) for the Project, the responsive submission by the proposed Contractor or Consultant, the proposed contract amount for the Project, the proposed contract, and the date on which Municipality intends to award the contract. County may disapprove the proposed contract: (a) for failure to comply with any requirement of this Agreement; (b) if the contract price exceeds or is materially inconsistent with the Funding Schedule (absent good cause, as determined by Contract Administrator); or (c) after consultation with Project Manager, for any other good cause as determined in the sole discretion of the Contract Administrator. If County disapproves any proposed contract, County must provide notice of such disapproval within twenty (20) days after receipt of the notice and the documents required pursuant to this section; if not timely disapproved, the proposed contracts shall be deemed approved.

3.5.3. For the contract with Contractor, the following provisions from the Surtax-Funded Projects Form Construction Contract must be included:

- 3.5.3.1. Contract, Article 3 (Contract Time)
- 3.5.3.2. Contract, Article 5 (Progress Payments; Retainage)
- 3.5.3.3. Contract, Article 6 (Acceptance and Final Payment)
- 3.5.3.4. General Conditions, Article 4 (Performance Bond and Payment Bond) and Article 5 (Qualification of Surety)
- 3.5.3.5. General Conditions, Article 17 (Project Records and Right to Audit) (*see also* Section 8.1 herein)
- 3.5.3.6. General Conditions, Article 33 (Location and Damage to Existing Facilities, Equipment, or Utilities)
- 3.5.3.7. General Conditions, Article 38 (Change Orders) and Article 39 (Value of Change Order Work)
- 3.5.3.8. General Conditions, Article 14 (Superintendence and Supervision)
- 3.5.3.9. General Conditions, Article 20 (Differing Site Conditions)
- 3.5.3.10. General Conditions, Article 40 (Notification and Claim for Change of Contract Time or Contract Price)
- 3.5.3.11. General Conditions, Article 41 (No Damages for Delay)
- 3.5.3.12. General Conditions, Article 42 (Excusable Delay; Compensable; Non-Compensable)
- 3.5.3.13. General Conditions, Article 53 (Domestic Partnership)
- 3.5.3.14. General Conditions, Article 54 (Equal Employment Opportunity and CBE/SBE Compliance)
- 3.5.3.15. Supplemental Wage Requirements (Prevailing Wage Rate Ordinance)

3.5.4. For the contract with Consultant, the following provisions from the Surtax-Funded Projects Form Consultant Contract must be included:

- 3.5.4.1. Article 4 (Time for Performance; Contractor Damages)
- 3.5.4.2. Sections 5.3 and 5.4 (Reimbursable Expenses; Method of Billing)
- 3.5.4.3. Section 7.5 (Truth in Negotiation)

- 3.5.4.4. Section 7.9 (Domestic Partnership Requirement)
- 3.5.4.5. Article 10 (Equal Employment Opportunity and CBE Compliance)
- 3.5.4.6. Section 11.4 (Public Records and Trade Secrets)
- 3.5.4.7. Section 11.5 (Audit Rights)
- 3.5.4.8. Section 11.8 (Indemnification)
- 3.5.4.9. Section 11.14 (Drug-Free Workplace)

ARTICLE 4. TERM AND TIME OF PERFORMANCE

4.1. Term. The term of this Agreement shall begin on the date it is fully executed by the Parties (“Effective Date”) and shall end on December 31, 2022 (“Initial Term”), unless extended pursuant to Section 4.2.

4.2. Extensions. The Parties may renew this Agreement for up to two (2) additional one (1) year terms (each an “Extension Term”) by written approval of the Project Manager and the County Administrator at least thirty (30) days prior to the expiration of the then-current term. Any further extension shall require approval by the Board and the governing body of Municipality.

4.3. Fiscal Year. The continuation of this Agreement beyond the end of any County fiscal year (October 1 through September 30) is subject to both the appropriation and the availability of transportation surtax funds in accordance with Chapter 129, Florida Statutes.

4.4. Time of the Essence. Unless expressly waived by the Contract Administrator in writing, time is of the essence in Municipality’s performance of its duties, obligations, and responsibilities under this Agreement.

ARTICLE 5. FUNDING AND SURETY

5.1. Surtax Funding. County shall provide funding to Municipality for the Project in accordance with the Funding Schedule (**Exhibit B**). Any amounts, costs, or expenses indicated as ineligible for funding in Exhibit B shall not be funded by County but must instead be funded by Municipality from non-surtax funds. The Parties agree and acknowledge that all funding provided by County to Municipality under this Agreement shall be paid exclusively from and subject to the availability of proceeds from the transportation surtax levied pursuant to Section 212.055(1), Florida Statutes, and County shall not have any obligation to provide, nor shall County provide, any funding from County’s general revenue or any other County source. Municipality agrees and stipulates that the funding provided by County to Municipality under this Agreement will be utilized by Municipality only for the purposes permitted under Section 212.055(1), Florida Statutes.

5.2. Method of Billing and Payment. Municipality shall invoice County only in accordance with the Funding Schedule. Any credit due to County under Section 5.6 must be reflected on the next applicable invoice. To be proper, each invoice must comply with the requirements of Exhibit B and be accompanied by a certification by the chief administrative officer and the chief financial

officer of Municipality, or such other persons designated by Municipality with authority to act in similar capacities, that all funds received and utilized to date by Municipality under this Agreement were utilized only for the Project, only for the portion(s) of the Project that the Oversight Board and County determined were eligible for surtax funding, and only for purposes that Municipality independently determined were eligible for surtax funding. County shall pay Municipality in accordance with the Funding Schedule within thirty (30) days of receipt of Municipality's proper invoice. Payment shall be made to Municipality at the address designated by Municipality for notices pursuant to Section 11.6.

5.3. Phases; Funding Schedule. The Funding Schedule may provide for funding the Project in phases or by deliverable, with the funding for subsequent phases or deliverables to be determined after completion of prior phases or particular deliverables. Any such later-determined funding for the Project, including any modification to the funding amount(s), phase(s), or deliverable(s) stated in the Funding Schedule, shall require a written amendment to this Agreement with an amended Funding Schedule attached thereto setting forth the next phase(s) or deliverable(s) and applicable funding for same. All terms and conditions of this Agreement shall apply to any such amended Funding Schedule. The County Administrator, on behalf of County, and the Municipality's City Manager, on behalf of Municipality, are authorized to execute amendments to this Agreement to incorporate an amended Funding Schedule, provided the total of all funding obligations of County under this Agreement does not exceed the total Maximum Funding Amount. Any amended Funding Schedule or other amendment that would cause County's total funding obligations under this Agreement to exceed the Maximum Funding Amount shall not be effective unless approved by the Board.

5.4. Maximum Funding. Municipality acknowledges that the Maximum Funding Amount set forth below is the maximum amount payable by County and constitutes a limitation upon County's obligation to provide funding to Municipality for the Project. Municipality further acknowledges that subtotal amounts set forth below for the applicable phases and in the Funding Schedule (including as amended) are the maximum amounts payable for the applicable portions of the Project, and constitute limitations on County's obligation to provide funding to Municipality for the Project.

Description	Not-To-Exceed Amounts
Phase 1: Construction	\$749,890.00
MAXIMUM FUNDING AMOUNT:	\$749,890.00

In no event shall County be liable to provide funding to Municipality in excess of the applicable amounts stated in the Funding Schedule or the Maximum Funding Amount, regardless of the basis for any claim or the basis for increased cost, including, without limitation, differing site conditions, delays, weather, or any other reason. If the actual costs of the Project exceed the amount County is obligated to fund per the Funding Schedule, as same may be amended pursuant to this Agreement, Municipality shall be solely responsible for funding any and all such additional amounts. Municipality is solely responsible for any and all costs to operate, support,

and maintain the Project unless otherwise agreed in writing by the Parties; County has no obligation to fund any costs related to the Project except as expressly stated in this Agreement.

5.5. Adjustments for Corridor Projects; Funding Withholding; Other Delayed Funding.

5.5.1. In order to avoid duplicative construction and unnecessary disruption of the local transportation network and community, the Parties shall cooperate in good faith to coordinate the timing of the Project with other projects that affect the same or nearby transportation elements, including, without limitation, other Surtax-Funded Projects and other County or State roadway projects (collectively, "Corridor Projects"). The Contract Administrator shall provide prompt notice to Municipality if County determines that the timing of the Project requires adjustment due to a Corridor Project. Upon receipt of such a notice, Municipality shall use best efforts to suspend any additional work on the Project pending an agreed adjustment to the Project Schedule, and the Parties shall cooperate to mutually approve an adjusted Funding Schedule (adjusted only as to timing, absent good cause as determined by Contract Administrator) and Project Schedule. County may withhold any otherwise scheduled funding until such adjustments are mutually approved by the Parties. To the extent some or all of the Project costs are modified as a direct result of a timing adjustment to accommodate a Corridor Project, such modified costs shall be addressed in an amendment to the Funding Schedule and, if necessary, an amendment to this Agreement.

5.5.2. If commencement or completion of a phase of the Project is delayed beyond its scheduled date by more than one (1) year, or work suspended for more than one (1) year, the Funding Schedule may be unilaterally adjusted as to timing (but not amount) by written notice issued by the Contract Administrator, after consultation with Municipality, to reflect the delay; any adjustment to the amount of funding for any phase in connection with the delay shall require an amended Funding Schedule in accordance with Section 5.3.

5.6. Overpayments; Refunds. Any funding provided by County under this Agreement for a Phase that exceeds the actual amounts expended by Municipality in accordance with this Agreement for that Phase shall be credited against the next invoice to County or refunded to County, as elected by County. Any funding provided by County under this Agreement that exceeds actual amounts paid by Municipality for the Project shall be promptly refunded to County upon Municipality's discovery of an overpayment, County's request for refund, or sixty (60) days after completion of the Project, whichever occurs first. For purposes of this calculation, any interest expense(s) incurred by Municipality are not an allowable cost. Any refunds, credits, liquidated damages, insurance proceeds (after payment of any applicable deductible), claim or litigation proceeds (after payment of attorneys' fees and costs), or other amounts received by or credited to Municipality by or on behalf of Contractor, Consultant, or any Subcontractor (collectively, "Proceeds") shall be either credited against future funding due from County under this Agreement or paid by Municipality to County within thirty (30) days after its receipt of the Proceeds, as elected by County. The total Proceeds amount credited or refunded

to County shall not exceed the total funding provided by County under this Agreement. Municipality shall promptly notify County of any amount of Proceeds received by or credited to Municipality, and of any claims filed or asserted relating to the Project. For unresolved claims or litigation, the Parties shall cooperate to ensure any Proceeds are first credited or repaid to the benefit of County before any other allocation.

5.7. Separate Accounting. Municipality shall deposit and maintain all funding received from any source for the Project in a segregated fund or account, which shall be subject to audit pursuant to Article 8. Any interest earned by Municipality on any funds provided under this Agreement shall be credited against the funding otherwise due from County under this Agreement and must be utilized by Municipality solely in accordance with the terms of this Agreement. Upon prior written approval by the Contract Administrator, Municipality may utilize other methods of separate accounting for the Project funds provided the accounting method permits a full and complete audit of the funds as required by Article 8.

5.8. Withholding by County. Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to ensure utilization of the funds in accordance with this Agreement, applicable law, and the Board-approved transportation surtax program. Failure of Municipality or the Project to comply with the Reporting Requirements or the Performance Metrics may also be a basis to withhold or limit future funding for the Project, as determined in the reasonable discretion of the Contract Administrator. The amount withheld shall not be subject to payment of interest by County. Upon written notice by County and except as expressly stated otherwise herein, payment may be withheld by County for the duration of any failure of Municipality to comply with a term, condition, or requirement of this Agreement; County shall promptly pay the amount withheld to Municipality when Municipality's noncompliance with the applicable terms and conditions of this Agreement is cured to the reasonable satisfaction of Contract Administrator.

5.9. Final Invoice and Reconciliation. Unless otherwise stated in the Funding Schedule or approved by the Contract Administrator, Municipality must submit the final invoice to County no later than one hundred twenty (120) days after the completion of the Project. The final invoice must be accompanied by a complete summary of all expenses incurred and all amounts paid for the Project, all funding, Proceeds, interest, or other amounts received relating to the Project, and any unpaid invoices, amounts still owing, disputed charges, or other unresolved issues relating to the Project that may impact the financial accounting of the Project (collectively, the "Final Reconciliation"). Upon request by the Contract Administrator, Municipality shall provide any backup or additional documentation requested relating to the Final Reconciliation; if County or Municipality identifies any error or omission in the Final Reconciliation, Municipality shall resubmit a corrected final invoice and corrected Final Reconciliation. County shall pay the correct final invoice after review and approval of the Final Reconciliation.

ARTICLE 6. TRANSPORTATION SURTAX PROJECT COORDINATION AND PARTICIPATION

6.1. Reporting Requirements. Unless waived in writing by the Contract Administrator, Municipality shall comply with the Reporting Requirements set forth in **Exhibit C**. In addition,

Municipality shall provide written reports to the Contract Administrator consisting of the following information as of the date of the report, with monthly information provided within thirty (30) days after the end of the applicable month, quarterly information provided within forty-five (45) days after the end of the applicable quarter, and annual information provided within one hundred eighty (180) days after the end of the fiscal year:

6.1.1. Quarterly Report on Expenditures: For both total to date and total for the applicable quarter, the total funds received from any funding source for the Project (itemized by funding source) and total funds (by funding source) expended to date for the Project;

6.1.2. Monthly Report on Project Schedule: The updated Project Schedule, summary of progress during the applicable quarter, and any adjustments to the Project Schedule (including all approved adjustments and pending requests for adjustments);

6.1.3. Monthly report on Material Changes or Impacts: All material changes to the Project, the Project Schedule, or any other aspect of the Project that may impact the cost of the Project or the ability of the Project to achieve the intended goals or purposes; and

6.1.4. Annual Audit Reports: On an annual basis, copies of Municipality's most recent annual financial reporting packages, reports, or other information required to be submitted in accordance with Section 215.97, Florida Statutes. A copy of Municipality's most recent single audit complies with this requirement.

6.2. Performance Metrics. Municipality must ensure that the quality, progress, and nature of the Project strictly comply with the Performance Metrics stated in Exhibit C. The Contract Administrator may modify the Performance Metrics for the Project at any time with the written approval of the Project Manager. In addition to the reporting required pursuant to Section 6.1 above, Municipality shall provide written reports to the Contract Administrator on at least an annual basis, no later than ninety (90) days after the end of the fiscal year, documenting the Project's compliance with the applicable Performance Metrics. The Contract Administrator or designee will provide technical assistance and support, as may be reasonably requested by Municipality, and shall make available to Municipality a centralized repository of relevant, available metrics and data.

6.3. Permitting for Surtax-Funded Projects. To decrease public inconvenience and to facilitate the expeditious and efficient completion of Surtax-Funded Projects, for any Surtax-Funded Project that is performed by County and is in whole or in part within the geographical boundaries of Municipality, Municipality shall waive, to the full extent permissible under applicable law, all municipal permitting requirements, except to the extent of any portion of the work performed by County that will be owned, operated, and maintained by Municipality. The waiver shall include, but not be limited to, the requirements of permit application, permit issuance, inspections, and permitting fees. County shall be responsible for ensuring adequate plan review, inspections, and compliance with State and County standards for work in the public right of way.

County shall waive, to the full extent permissible under applicable law, all County permitting fees for municipal Surtax-Funded Projects.

6.4. Road Closures. Municipality shall institute and comply with a cooperative notification program that ensures County is promptly notified and promptly provided with data reasonably requested by County regarding all municipal roads that are closed for any reason, including but not limited to the Project, other construction, or flooding, in a format prescribed by County. Providing Municipality consistently utilizes the cooperative notification program established by County and promptly cures any nonperformance upon notice by County, nonrecurring or isolated incidents of failure by Municipality to timely notify as required by this Section 6.4 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.5. Branding and Marketing. At County's request, Municipality shall participate in reasonable branding and marketing in the form and content prescribed by County, including, but not limited to, signage prominently acknowledging the surtax funding source of Surtax-Funded Projects, utilizing County-approved wording, logo, or other imagery, which branding and marketing will acknowledge the project contributions of County and Municipality. The costs for all branding and marketing requested by County pursuant to this Section 6.5 shall be fully funded by County. Provided Municipality cures any nonperformance within thirty (30) days after notice by County, nonrecurring or isolated incidents of failure by Municipality to comply with this Section 6.5 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.6. Data Collection and Sharing. To the extent requested by County, Municipality shall ensure the Project includes incorporation and placement of sensors or other devices on municipal roads, rights of way, properties, and assets for County-approved applications for mobility-related data collection purposes, provided such placement shall not unreasonably interfere with the aesthetics or Municipality's use of such roads, rights of way, properties, or assets. The costs for any such incorporation and placement requested by County shall be funded by County. Municipality shall ensure the collection of data includes and is consistent with the scope, type, frequency, quantity, and format requested by County in order to facilitate countywide collection and utilization of transportation data. For the useful life of the Project, to the extent requested by County, Municipality shall provide County any and all access to such data as may be requested by County, including recurring or real-time access or periodic download. Provided Municipality cures any nonperformance within thirty (30) days after notice by County, nonrecurring or isolated incidents of Municipality's failure to comply with this Section 6.6 shall not be a basis for withholding or nonpayment of funding by County under this Agreement.

6.7. Conflict of Interest.

6.7.1. Municipality represents and agrees that it has not contracted, and will not contract during the term of this Agreement, with the MPO for the MPO to perform any of the following services (collectively, the "Contracting Prohibitions"):

- 6.7.1.1. Any design, construction, oversight, or management services relating to any Surtax-Funded Project or any proposed project for which transportation surtax funding is being or will be sought;
- 6.7.1.2. Any planning, oversight, or reporting services relating to any receipt by Municipality of community shuttle surtax funding; or
- 6.7.1.3. Any grant writing or grant consultation services in connection with any Surtax-Funded Project (or proposed Surtax-Funded Project).

6.7.2. The foregoing Contracting Prohibitions:

- 6.7.2.1. Shall not apply to any state- or federally-mandated services provided by the MPO for which services the MPO does not receive any compensation from Municipality beyond Municipality's annual contribution to the MPO;
- 6.7.2.2. May be waived by the County Administrator in connection with any Surtax-Funded Project for which the County Administrator determines, in his or her sole discretion, that such waiver is in the best interest of Broward County for reasons including, but not limited to, that such waiver would permit the performance of services reasonably necessary to obtain significant state or federal matching funds in connection with any project or proposed project. No such waiver shall be effective unless approved by the County Administrator in writing; and
- 6.7.2.3. Do not prohibit or in any way impede the ability of Municipality to contract with any entity other than the MPO for transportation planning services whether or not such services are in connection with any Surtax-Funded Project.

The Parties agree that any violation of the Contracting Prohibitions will constitute a material breach of this Agreement which, in addition to all other remedies available to County under this Agreement, would permit County to terminate this Agreement, withhold all funds otherwise payable to Municipality under this Agreement, and require Municipality to repay County in full for any funds previously paid by County under this Agreement.

6.8. Sale, Transfer, or Disposal of Surtax-Funded Property. Municipality shall not sell or otherwise transfer or dispose of its title, rights, or interests, or any portion thereof, in real property, facilities, or equipment, funded in any part by County under this Agreement, without prior written approval from County. If a sale, transfer, or disposal occurs in violation of this section, unless otherwise agreed in writing by the Parties, Municipality shall pay County, within ninety (90) days after the sale, transfer, or disposal, an amount equal to the greater of County's

share of the fair market value or the straight line depreciated value of the improvements plus land value. "County's share of the fair market value" as used herein means the percentage of surtax funding in the Project multiplied by the best obtainable price for the item, and the resulting product then reduced by reasonable sales costs. If the property has never been used for the intended purpose of the Project, Municipality shall pay the greater of County's share of the fair market value or the entire amount of surtax funding provided for the Project.

6.9. Affirmation of MPO Prioritization and Ranking Process. Municipality acknowledges that the prioritization and ranking process of municipal capital projects for fiscal year 2020 was completed in compliance with all applicable obligations of County and the MPO; and was informed by each project's ability to alleviate traffic congestion and improve connectivity, as well as shovel-readiness, construction work planned in the vicinity of a proposed project, corridor delivery timing, and other existing conditions that allow surtax revenues to be utilized responsibly, efficiently, and with the least interruption to residents and businesses. Municipality hereby waives and releases any and all claims it has or may have that accrued at any time prior to the effective date of this Agreement, which claims, in any way, relate to, result from, or are in connection with the prioritization and ranking process of municipal capital projects for fiscal year 2020 or the County's funding decisions related thereto. Municipality agrees and stipulates that the MPO prioritization and ranking process for fiscal year 2020 was proper and consistent with the applicable interlocal agreements and that the County is not, as of the effective date of this agreement, in breach or default of any provision of any applicable interlocal agreement relating in any way to expenditure of transportation surtax proceeds.

ARTICLE 7. INDEMNIFICATION

Municipality shall indemnify, hold harmless, and defend County and all of County's current, past, and future officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities, and expenditures of any kind, including attorneys' fees, court costs, and expenses, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Municipality, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Municipality shall, upon written notice from County, defend each Indemnified Party against each such Claim by counsel satisfactory to County or, at County's option, pay for an attorney selected by the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Municipality under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

ARTICLE 8. AUDITING

8.1. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Municipality, Contractor, Consultant, and Subcontractors (the “Audited Entities”) that are related to the Project or this Agreement (the “Contract Records”). Audits, reviews, monitoring, inspections, and investigations conducted pursuant to this Agreement may include, but are not limited to, on-site visits by County staff, interviews of staff of any of the Audited Entities, review of performance and financial reports, determining and monitoring appropriate corrective action, and issuing management letters on deficiencies or weaknesses identified. Audited Entities shall fully comply and cooperate with any auditing and monitoring activities deemed appropriate by County.

Audited Entities shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request by the Contract Administrator to do so, Audited Entities shall make same available in written form at no cost to County.

Contract Records include any and all information, materials, and data of every kind and character, including without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, and memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance relating to the Project. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance relating to the Project of any of the Audited Entities.

Audited Entities shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to the Project or this Agreement until the later of five (5) years after expiration or termination of this Agreement, resolution of any audit findings, or as otherwise required by law. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County) or the Oversight Board. The Project and all expenditures relating to the Project shall be subject to the Oversight Board’s review, critique, and analysis for the duration of the Project.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County’s disallowance and recovery of any payment made or based upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County’s audit shall be reimbursed to County by Municipality in addition to any required adjustments for the overcharges. Any adjustments or payments due as a result

of such audit or inspection shall be made by Municipality to County within thirty (30) days after presentation of County's findings to Municipality.

Municipality shall ensure that the requirements of this section are included in all agreements with any other Audited Entity. Municipality shall further include in its contract with Contractor and its contract with Consultant the following provision:

"If an audit inspection or examination in accordance with this provision discloses overpricing or overcharges to Municipality (of any nature) by the contractor or the contractor's subcontractors in excess of five percent (5%) of the total contract billings reviewed, the reasonable actual cost of any audit conducted by or on behalf of Municipality, Broward County, or the Independent Transportation Surtax Oversight Board shall be reimbursed by contractor to the Municipality or Broward County, as applicable, along with any required adjustments for the overpricing or overcharges. Any adjustments or payments that must be made as a result of any such audit or inspection of the contractor's invoices or records shall be made within a reasonable amount of time (not to exceed 30 days) after presentation of the audit findings to contractor."

8.2. Performance Audit. The Project, and all funding received, maintained, or expended by Municipality for the Project, shall be subject to audits and reviews by the Oversight Board at its expense (and subject to reimbursement pursuant to this article) for the duration of the Project and continuing until five (5) years after the later of completion of the project, expiration or termination of this Agreement, or resolution of any audit findings. Municipality shall fully cooperate and provide any and all requested Contract Records as may be requested by the Oversight Board. The Project and all funds received, maintained, or expended relating to the Project shall be subject to the Oversight Board's review, critique, and analysis for the duration of the Project.

ARTICLE 9. TERMINATION

9.1. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within thirty (30) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated by the Board upon sixty (60) days' prior written notice if the Board determines that the Project cannot be funded with surtax funding under applicable law, including Section 212.055, Florida Statutes. This Agreement may be immediately terminated by written notice by the County Administrator if the transportation surtax is determined by a court of competent jurisdiction to be invalid, void, or illegal.

9.2. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

9.2.1. Inability of Municipality, including through Contractor or Consultant, to perform or complete the Project in compliance with this Agreement, including the Project

Schedule (including any extensions approved by Contract Administrator, approval of which shall not be unreasonably withheld);

9.2.2. Repeated submission (whether negligent or intentional) for payment of false or incorrect invoices;

9.2.3. Fraud, misrepresentation, or material misstatement in the performance of this Agreement or the Project by Municipality, Contractor, or Consultant;

9.2.4. Contractor's or Consultant's act or omission that violates any applicable requirement of Section 1-81, Broward County Code of Ordinances; or

9.2.5. Utilization of the funding provided by County under this Agreement in a manner that violates applicable law or for uses or purposes that are not permitted uses for transportation surtax funds under Section 212.055, Florida Statutes.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement.

9.4. If this Agreement is terminated by County, Municipality shall be paid from proceeds of the surtax levied pursuant to Section 212.055, Florida Statutes, if funding is available, for any work on the Project properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable.

9.5. In addition to any right of termination stated in this Agreement, County and Municipality shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity, all such remedies being cumulative.

9.6. Municipality may terminate this Agreement upon thirty (30) days' prior written notice to County if Municipality determines not to proceed with the Project and either (a) the written notice of termination is provided prior to Municipality's receipt of any funding from County under this Agreement, or (b) prior to the effective date of termination, Municipality returns all funding received from County under this Agreement, including any interest earned by Municipality on any funds provided by County under this Agreement.

ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE

10.1. No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Municipality shall include the foregoing or similar language in its contracts with Contractor and Consultant, and shall require inclusion of the foregoing or similar language in their contracts with Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2. Unless otherwise approved in advance in writing by County's Director of Office of Economic and Small Business Development ("OESBD"), Municipality shall comply with all applicable requirements of the County Business Opportunity Act, Section 1-81, et seq., Broward County Code of Ordinances, in the award and administration of any contract or agreement regarding the Project. Failure by Municipality to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

10.3. Unless otherwise approved in advance in writing by County's Director of OESBD, Municipality will meet the required CBE goal for the Project by utilizing (or requiring the utilization of) CBE firms for at least thirty percent (30%) of total Project costs, except that no CBE commitment shall apply to agreements that are subject to other participation goals (e.g., federal DBE program or SBE reserves), agreements that are expressly exempt from the County's Procurement Code, agreements that are otherwise ineligible by state or federal law, and agreements to which goals are not assigned by the County (e.g., sole source, sole brand, and emergency agreements) (the "Commitment").

10.4. Each CBE firm utilized to meet the Commitment must be certified by OESBD. Municipality shall inform County immediately when a CBE firm is not able to perform or if Municipality believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Municipality to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Municipality shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the Project and no CBE firm is available to perform the modified Project; in which event, Municipality shall notify County, and OESBD may adjust the Commitment by written notice to Municipality. Municipality shall not terminate a CBE firm for convenience without County's prior written consent, which consent shall not be unreasonably withheld.

10.5. Municipality shall include the following provision in its contract with Contractor:

"The parties stipulate that if Contractor fails to meet the CBE utilization obligation in the Interlocal Agreement between Municipality and Broward County (the "Commitment"), the damages to Broward County and Municipality arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and Broward County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Contractor shall pay Municipality liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses.

An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by Broward County, such liquidated damages amount shall be either credited against any amounts due Contractor from Municipality, or must be paid by Municipality to Broward County within thirty (30) days after written demand by Broward County. Any failure to meet the Commitment attributable solely to force majeure, changes to the Project, or inability to substitute a CBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.”

10.6. Municipality shall require Contractor and Consultant to provide written monthly reports to the Municipality and the Contract Administrator no later than ten (10) business days after the end of the month regarding Contractor’s and Consultant’s compliance with the Commitment stated in this article. In addition, Municipality shall require Contractor and Consultant to allow County to engage in onsite reviews to monitor Contractor’s and Consultant’s progress in achieving the Commitment and maintaining the applicable contractual and CBE obligations.

ARTICLE 11. MISCELLANEOUS

11.1. Contract Administrator Authority; Dispute Resolution; Escalation. The Contract Administrator is authorized to coordinate and communicate with Municipality to manage and supervise the performance of this Agreement. Any determination by the Contract Administrator that this Agreement authorizes the Contract Administrator to make shall be binding on the Parties. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement. In the event of a dispute regarding the performance of this Agreement, both Parties stipulate and agree to expedited dispute resolution procedures as follows: if either Party provides notice of a dispute that the respective staff have failed to resolve despite diligent good faith efforts, the Contract Administrator and the Project Manager (or other appropriate representative(s) designated by County or Municipality, respectively) shall meet in person or via videoconference within ten (10) business days and attempt in good faith to resolve the dispute and report potential resolutions to their respective governing bodies for consideration; if either Party thereafter provides written notice of impasse, the Mayors or Vice-Mayors of the County and Municipality shall meet in person or via videoconference within ten (10) business days and attempt in good faith to resolve the dispute and report potential resolutions to their respective governing bodies for consideration; any resolution must be approved by the governing bodies of both Parties to be effective. If either Party thereafter provides written notice of impasse, either Party may proceed to seek any available judicial remedies and the Parties agree and stipulate that the requirements of Chapter 164 shall be deemed fully met and both Parties waive and agree not to assert any defense based upon failure to fully comply with the intergovernmental dispute resolution proceedings otherwise required under Chapter 164.

11.2. Public Records. The Parties agree and stipulate that both Parties are subject to Florida public records laws and shall fully comply with same. At the request of County, Municipality shall, in accordance with applicable law, respond to any request for public records received by County relating to the Project. Any other public records request shall be responded to by the receiving party. Each Party shall cooperate upon request by the other Party and provide any requested records to enable the Party to respond to a public records request.

Any material submitted to County that Municipality, Contractor, or Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Municipality, Contractor, or Consultant, as applicable, must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by Municipality, Contractor, or Consultant as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Municipality, Contractor, or Consultant, as applicable. Municipality shall indemnify and defend, and shall require Contractor and Consultant to indemnify and defend, County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a public records request by a third party.

11.3. Independent Contractor. Nothing in this Agreement constitutes or creates a partnership, joint venture, or any other relationship between the Parties or any Party and Contractor, Consultant, or any Subcontractor. Neither Party nor its agents shall act as officers, employees, or agents of the other Party. Neither Party shall have the right to bind the other Party to any obligation not expressly undertaken by that Party under this Agreement.

11.4. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County or Municipality, nor shall anything included herein be construed as consent by County or Municipality to be sued by third parties in any matter arising out of this Agreement. County and Municipality are subdivisions of the State of Florida, as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of their respective employees pursuant to Section 768.28, Florida Statutes.

11.5. Third-Party Beneficiaries. Neither Municipality nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.6. Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Administrator
Attn: Monica Cepero
115 South Andrews Avenue, Room 409
Fort Lauderdale, Florida 33301
Email address: mcepero@broward.org

With a copy to:

Broward County Attorney's Office:
Attn: Angela J. Wallace
115 South Andrews Avenue, Room 423
Fort Lauderdale, Florida 33301
Email address: ajwallace@broward.org

FOR MUNICIPALITY:

City of Deerfield Beach City Manager
Attn: David Santucci
150 NE 2nd Avenue
Deerfield Beach, FL 33441
Email address: dsantucci@deerfield-beach.com

With a copy to:

City Attorney
Attn: Anthony C. Soroka
1200 N. Federal Highway, Suite 312
Boca Raton, Florida 33431
Email address: ASoroka@wsh-law.com

11.7. Assignment. Neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Municipality without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity, all such remedies being cumulative.

11.8. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. County's or Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.9. Compliance with Laws. Municipality and the Project must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

11.10. Representation of Authority. The Parties represent and warrant that this Agreement constitutes the legal, valid, binding, and enforceable obligation of each Party, that execution of this Agreement is within each Party's legal powers, and that each individual executing this Agreement is duly authorized by all necessary and appropriate action to do so on behalf of that Party and does so with full legal authority.

11.11. Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.12. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.13. Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include any other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to "days" means calendar days, unless otherwise expressly stated.

11.14. Priority of Provisions. Unless otherwise expressly stated in this Agreement, if there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect. In the event of a conflict between this Agreement

and the Transportation System Surtax Interlocal Agreement, executed by County on August 29, 2018, as amended, the provisions of this Agreement shall prevail and be given effect.

11.15. Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, EACH OF MUNICIPALITY AND COUNTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT.**

11.16. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and Municipality.

11.17. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.

11.18. Payable Interest

11.18.1. Payment of Interest. County shall not be liable to pay any interest to Municipality for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Municipality waives, rejects, disclaims, and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

11.18.2. Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.19. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached exhibits are incorporated into and made a part of this Agreement.

11.20. Prevailing Wage Requirement. If construction work in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) is required of, or undertaken by, Municipality as a result of this Agreement, Section 26-5, Broward County Code of Ordinances, as amended from time to time, shall be deemed to apply to such construction work. Municipality shall ensure Contractor fully complies with the requirements of such ordinance and satisfies, complies with, and completes the required forms as set forth in the Surtax-Funded Projects Form Construction Contract or such other contract as is approved pursuant to this Agreement.

11.21. Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.22. Living Wage Requirement. To the extent Contractor is a “covered employer” within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Municipality shall include in its written agreement with Contractor that Contractor agrees to and shall pay to all of its employees providing “covered services,” as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Contractor shall ensure all of its Subcontractors that qualify as “covered employers” fully comply with the requirements of such ordinance.

11.23. Workforce Investment Program. Municipality acknowledges the Broward Workforce Investment Program, Section 19.211, Broward County Administrative Code (“Workforce Investment Program”). Municipality shall include in its contract with Contractor the requirements of the Workforce Investment Program and Contractor’s agreement to use good faith efforts to meet the First Source Referral Goal and the Qualifying New Hires Goal as set forth in the Workforce Investment Program, including by (a) publicly advertising exclusively with CareerSource Broward for at least five (5) business days any vacancies that are the direct result of this Agreement (whether those vacancies are with Municipality or its Subcontractors) and using good faith efforts to interview any qualified candidates referred under the Workforce Investment Program, and (b) using good faith efforts to hire Qualifying New Hires, as defined by the Workforce Investment Program, for at least fifty percent (50%) of the vacancies that are the direct result of this Agreement.

11.24. Survivability. Notwithstanding any expiration or termination of this Agreement, the following provisions shall survive expiration and termination: Section 3.2 (Municipal Responsibility for the Project); Section 5.6 (Overpayments; Refunds); Article 6 (Transportation Surtax Project Coordination and Participation); Article 7 (Indemnification); Article 8 (Auditing); Section 11.2 (Public Records); Section 11.15 (Law, Jurisdiction, Venue, Waiver of Jury Trial); and Section 11.18 (Payable Interest).

11.25. Approvals. To be effective, any approval under this Agreement made by or on behalf of the County, County Administrator, Contract Administrator, Project Manager, or other representative of either Party must be in writing.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its County Administrator, authorized to execute same by Board action on the 25th day of August, 2020, Agenda Item No. 86, and Municipality, signing by and through its City Manager duly authorized to execute same.

COUNTY

WITNESS:

BROWARD COUNTY, by and through
its County Administrator

(Signature)

By _____
County Administrator

(Print Name of Witness)

____ day of _____, 20__

(Signature)

Approved as to form by
Andrew J. Meyers
Broward County Attorney
Governmental Center, Suite 423
115 South Andrews Avenue
Fort Lauderdale, Florida 33301
Telephone: (954) 357-7600

(Print Name of Witness)

By _____
[Name] (Date)
Assistant County Attorney

By _____
Angela J. Wallace (Date)
Transportation Surtax General Counsel

Draft BC-DFBEACH-FY20-00001 Municipal Project ILA
2/4/2022
#22-114.00

INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF DEERFIELD BEACH
FOR SURTAX-FUNDED MUNICIPAL TRANSPORTATION PROJECT: REHABILITATION AND REPAIR
OF THE SE 13TH AVENUE BRIDGE OVER TERN WATERWAY (BC-DFBEACH FY2020-00001)

MUNICIPALITY

ATTEST:

CITY OF DEERFIELD BEACH

Samantha Gillyard, City Clerk

By: _____
David Santucci, City Manager

_____ day of _____, 20____

I HEREBY CERTIFY that I have approved
this Agreement as to form and legal
sufficiency subject to execution by the parties:

Anthony C. Soroka, City Attorney

EXHIBIT A
Project Description and Project Schedule

1. Project:

Rehabilitation and repair of the SE 13th Avenue bridge over the Tern Waterway ("Project") entails repairing (spalled/delaminated) concrete beams and walls at bridge locations; sealing existing cracks; removing existing traffic railing at each side of the bridge and installing vertical face retrofit traffic railing per FDOT standard; installing guardrail anchorage transition and end treatment per FDOT standard; removing existing approach guardrails at the four corners of the bridge and installing guardrail anchorage transition and end treatment per FDOT standard; and installing new approach slabs and expansion joints as specified in the sign, sealed construction documents dated September 23, 2021 which are incorporated hereing by reference.

2. Deliverables:

Municipality shall provide quantifiable, measurable, and verifiable units of Deliverables as set forth below. Each Deliverable must specify the required minimum level of work to be performed and the criteria for evaluating successful completion of the Deliverable.

DELIVERABLES: Phase R&M Construction

No.	Description	Duration/Deadline	Acceptance Criteria
1	Execution of ILA between County and City of Deerfield Beach	March 2, 2022	ILA executed by Municipality
2	Notice to Proceed	1 day	NTP Issued by Municipality.
3	Project Kickoff/Commencement of Work		Mobilization, Maintenance of Traffic, Project Start for: Culvert replacement; replace deteriorated retaining walls, clean, inject, seal cracks; install approach slab; install guardrails; perform load rating analysis.
4	30% Construction Completion	60 days from NTP	30% construction completion to include 100% mobilization, 30% culvert replacement, 30% replacement of deteriorated retaining walls, cleaning, injecting, seal cracks; 30% preparation for installation of approach slab

5	60% Construction Completion	120 days from NTP	60% construction completion to include 100% mobilization, 60% culvert replacement, 60% replacement of deteriorated retaining walls, cleaning, injecting, seal cracks; 30% preparation for installation of approach slab; 60% installation of guardrails
6	90% Substantial Completion	210 days after NTP	Includes punch list items, final inspections, perform load rating analysis, and non-substantial work items
7	100% Final Completion	30 days from Substantial Completion	Project Certified/Final Payment Issued

3. Project Schedule:

Description	Deadline
County and City execution of Project Specific ILA	March 2, 2022
Notice to Proceed	April 14, 2022
30% Construction Completion	60 days from NTP
60% Construction Completion	120 days from NTP
90% Substantial Completion	210 days from NTP
Final Project Completion	30 days from Substantial Completion

EXHIBIT B Funding Schedule

Funding Amounts: The amounts stated in this Funding Schedule are the maximum amounts payable for the Phase(s) stated, and shall be invoiced and paid only in accordance with the remainder of this Funding Schedule (as may be amended from time to time) and the terms and conditions of the Agreement. In the event of a conflict between anything stated in this Funding Schedule and anything stated elsewhere in the Agreement, the provisions stated in Articles 1 through 11 of the Agreement shall govern and control.

Invoicing/Application for Funding Documentation: Municipality shall submit the following with each invoice or Application for Funding (as defined below): an updated progress schedule; documentation of all invoices received from or payments made to Contractor or Consultant for which funding is sought; a statement indicating the cumulative amount of CBE participation to date; and a certification that all funding amounts sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Additional Invoicing Requirements: If checked, the checked requirements apply to all invoices/Applications for Funding under this Agreement:

- ☒ All costs invoiced shall be supported by properly certified payrolls, time records, invoices, contracts, or vouchers evidencing appropriate detail the amounts invoiced/expended and the nature and purpose of such amounts.
- ☐ Pay Application documents consistent with AIA Document G702 and G703
- ☐ _____

Funding Parameters: The checked expenses are ineligible for funding under this Agreement:

- ☒ Costs incurred by Municipality prior to the execution of this Agreement
- ☒ Costs incurred after the expiration of this Agreement
- ☒ Costs that are not expressly permitted in Exhibit A or B
- ☒ Amounts that Contractor, Consultant, or Subcontractors are contractually responsible to pay, credit, or reimburse to Municipality or County (e.g., liquidated damages for not meeting the Project Schedule, audit costs, etc.)
- ☒ Amounts attributable to good or services received under a contract or other arrangement that was not approved by County
- ☒ Audit costs incurred by Municipality
- ☒ Legal and accounting fees and expenses
- ☒ Costs for operation, support, or maintenance of the Project
- ☒ Interest expenses incurred by Municipality
- ☒ Municipality's staff or other personnel costs in directly performing the Project

Municipality shall invoice County for up to a quarter of the applicable Total Maximum Not-To-Exceed Amount specified below in advance of the applicable Deliverable or Phase (“Application for Funding”). The first Application for Funding shall be submitted to the Contract Administrator no later than thirty (30) days after the full execution of this Agreement. Municipality shall submit no more than four separate Applications for Funding per funding schedule provided below.

Each quarter will be funded in advance by County per the schedule(s) stated below, with each funding amount determined by the Maximum Not-to-Exceed Amount for the applicable Deliverable less any unexpended funding for prior Deliverables. Unexpended funds for prior Deliverables shall be deducted from subsequent Applications for Funding or refunded to County, as requested by the Contract Administrator.

Each Application for Funding (after the first) shall include the information required in the Agreement including the following information for the prior Deliverables (as applicable): the amount of funding received and evidence of actual expenditures (including documentation demonstrating all invoices received from and payments made to Consultant and for right of way acquisition or wetland mitigation); a statement indicating the cumulative amount of CBE participation; an updated progress schedule; and all required certifications including that all Deliverables sought are statutorily eligible for funding under Section 212.055, Florida Statutes.

Absent prior written approval by the Contract Administrator, Municipality may not submit an Application for Funding for a Deliverable until all prior Deliverables have been satisfactorily completed..

Deliverable/Phase Description	Quarterly Funding Maximum Not-To-Exceed Amount
Deliverable 1: 30% Construction Completion	\$187,472.50
Deliverable 2: 60% Construction Completion	\$187,472.50
Deliverable 3: 90% Construction Completion	\$187,472.50
Deliverable 4: 100% Construction Completion; Final Acceptance	\$187,472.50
TOTAL MAXIMUM NOT-TO-EXCEED AMOUNT:	\$749,890.00

EXHIBIT C

Reporting Requirements

Municipality shall submit to County and the Oversight Board, on a quarterly and annual basis, a detailed Financial Report that includes the information contained in the attached Sample Financial Report.

Municipality shall submit to County on a monthly basis a detailed report of the Project Metrics and progress towards applicable goals in a form prescribed by County (see attached MAP PMO Project Report Status Template). The reports must include sufficient information to enable County's Program Management Office ("PMO") to track and document on a monthly basis:

- Key activities and Project milestones since the previous report;
- Expected activities/milestones to be completed before the next report;
- If applicable, key issues/challenges the Project faces and the plan to resolve or manage the issues/challenges; and
- Overall status of the Project.

Municipality's annual financial report for the Project must be audited and certified by an independent CPA, at Municipality's expense, with an opinion as to whether the financial information in the report is presented in accordance with Generally Accepted Accounting Principles and whether the Project is in accordance with the operative interlocal agreements for surtax funding. The audit shall contain sufficient information for County and the Oversight Board to determine if the Project expenditures conform to this Agreement and applicable law. The annual financial report must also include cumulative financial information for each individual Surtax-Funded Project undertaken by Municipality. The annual financial report must include appropriate footnote disclosures in support of the financial information items presented, including disclosure of any issue of noncompliance with this Agreement or applicable law.

Sample Financial Report

Project Name:	
Quarterly Period:	

Section A: Total/Maximum Project Funding

1.	Surtax Maximum Funding Amount (per Section 5.4)	\$
2.	Non-Surtax Funding Awarded/Committed	\$
3.	Total Project Funding (Total lines 1 + 2)	\$
4.	Less Proceeds (as defined in Section 5.6)	(\$)
5.	Adjusted Project Funding (Line 3 minus Line 4)	\$

Section B: Funding Received to Date

		Quarter Reported	Fiscal Year to Date	Total
6.	Surtax Funding Received	\$	\$	\$
7.	Non-Surtax Funding Received	\$	\$	\$
8.	Total Project Funding Received (Total lines 6 + 7)	\$	\$	\$

Section C: Expenditures to Date

		Quarter Reported	Fiscal Year to date	Total
9.	Surtax Funding Expended	\$	\$	\$
10.	Non-Surtax Funding Expended	\$	\$	\$
11.	Total Project Funding Expended (Total lines 9 + 10)	\$	\$	\$

Section D: Available Funding to Date

12.	Adjusted Project Funding (Line 5 above)	\$
13.	Total Project Funding Expended to Date (Line 11 above)	\$
14.	Available Project Funding to date (Line 12 minus line 13)	\$

Section E: Contract Financials *(complete for each of Contractor and Consultant)*

Original Contract amount	\$
Changes (increases or decreases)	\$
Revised contract amount	\$
Total Work Completed to Date	\$
Retainage Held to Date	\$
Total Earned Less Retainage	\$
Total Amount Paid to Date	\$
Work Completed this Quarter	\$
Retainage Held for Work Completed this Quarter	\$

Retainage Released this Quarter	\$
Amount Paid this Quarter	\$

Section F: Quarterly Detailed Expenditures (for Quarter Reported)

Invoice No.	Invoice Date	Vendor Name	Description of Work	Invoice Amount	Amount Paid

Section G: Project Schedule & Status

15.	Project Schedule Completion Date	
16.	Total Project Schedule Time Remaining	
17.	Amount Project Is Ahead/Behind Schedule	☐ Ahead by ___ Days ☐ Behind by ___ Days
18.	Explanation for Change in Project Schedule:	
19.	Project Run Rate (Actual vs. Planned Expenditures)	
20.	Percentage of Project Phases/Milestones Met	%

Section H: Performance Metrics

- A.** [To be provided by the PMO as applicable]
- B.** Pavement Serviceability Rating (PSR): Report PSR prior to commencement of Project, current PSR, and projected PSR upon completion of Project.

MAP PMO Project Status Report *Template*

<Agency> Project: <i><fill in project name or id></i>		Owner: <i><fill in></i>	July 15, 2019
Progress update • Key activities since the last status report • ?		Overall Progress   Red = Execution critical delay  Amber = Delay; but recoverable  Green = On track	
Key activities to be completed in the next <2-4> weeks: • ? • ?		Summary: (may include) • Key take-aways for BoCC, OB and SurTax Admin • Project run rate; actual vs. planned • % Milestones met • Days over budget • Leverage ratio • Key reminders of critical decisions/milestones/etc.	
Issues/Challenges:		Proposed solutions:	

Exhibit D Form Contracts

Surtax-Funded Projects Form Construction Contract:

Surtax-Funded Projects Form Consultant Contract:

DRAFT

Exhibit E Municipal Resolution Authorizing Execution of Agreement

DRAFT



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1063

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an agreement with Kimley-Horn and Associates, Inc. for the design of the Pioneer Grove Infrastructure Improvements and Complete Streets Project; authorizing the City Manager to execute the Agreement with Kimley-Horn and Associates, Inc., in an amount of \$586,265; and providing for an effective date. (Funds from Account #108-5050-541-60-31 - Improvements Other than Buildings)

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: \$586,265

Account Name: Improvements Other than Buildings

Account Number: 108-5050-541-60-31

Background/History

On August 17, 2021, the City Commission approved the Interlocal Agreement with Broward County for the Surtax Funded Municipal Transportation Project: Pioneer Grove Infrastructure Improvements and Complete Streets DEER-005 and 006 (the "Project ILA"). On January 4, 2022, the City Commission approved the ranking for Request for Qualifications #22-05-PC and authorized the City Manager to negotiate an agreement with Kimley-Horn and Associates, Inc. ("Kimley-Horn").

The City is in receipt of the attached scope of work from Kimley-Horn (the "Proposal"), which consists of professional survey, geotechnical, conceptual design services, and construction document design services (the "Services") for the development of streetscape improvements within the right-of-way (R/W) of SE 2nd Avenue between NE Eller and SE 10th Street and improvements to the R/W of SE 4th Street between the east R/W of the FEC railroad and SE 2nd Avenue (the "Project"). The Proposal is for an amount of \$586,265 for the Surtax eligible items, and provides for additional services that may be requested by the City at a later date.

The Project is to be partially funded using \$300,000 in funding provided by the Broward County transportation surtax (the "Surtax") program and the remaining design will be funded by an available Road and Bridge Fund balance. The following Scope of Services will provide the design for eligible Surtax funding items:

- Pedestrian lighting for the full corridor length, considers options for implementation with the FPL Tariff program and a full City-owned lighting system.
- Roadway lighting analysis and upgrade potential for FPL Tariff program replacement and/or re-lamping with LEDs, including additional poles/luminaires/arms if required.
- Streetscape/ roadway improvements consisting of:
 - Sidewalk design with accessibility improvements (no decorative treatment).

- Bike facilities – on street and/or off-street.
- Roadway configuration with on-street parking, curbing for bulb-outs, signage and marking.
- Surface and subsurface drainage improvements.
- Traffic calming street components, such as traffic circles, speed humps, neck-downs, or other similar solutions applied within the R/W.
- Bioswale and permeable pavement solutions.
- Crosswalk/intersection improvements (non-decorative).
- Gateway element or sign feature that applies the required Surtax funding logo.

Optional design phase services for design of the project components that are not Surtax-eligible may be fully scoped for authorization at a later date to potentially include the following:

- Water/Wastewater utility improvements design
- Design for decorative hardscape treatments – sidewalks/parking lane/crosswalks/etc. (with low maintenance considerations)
- Design/specification for street furnishings - benches, bike racks, locations for public art, etc.
- Design for plantings and tree relocations or other tree permitting efforts
- Design for irrigation system(s)
- Design for decorative signage, gateway features, and/or interpretive signage beyond that which provides identification for the Surtax logo.

Current Activity

In accordance with the Project schedule, as provided in the Project ILA, upon execution of an agreement with Kimley-Horn, the City will authorize a notice to proceed for commencement of the work. Kimley-Horn will have 60 days to complete the initial conceptual design services and 90 days thereafter for each phase of design submittals with anticipated plan completion and permit approvals by January 2023. Construction of this project will be funded in the Surtax Program five year plan beginning in FY23 in the amount of \$2,500,000.

Recommendation

It is recommended that the City Commission of the City of Deerfield Beach approve the consultant agreement with Kimley Horn and Associates for the City of Deerfield Beach Surtax Funded Municipal Transportation Project: Pioneer Grove Infrastructure Improvements and Complete Streets DEER-005/006.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR THE DESIGN OF THE PIONEER GROVE INFRASTRUCTURE IMPROVEMENTS AND COMPLETE STREETS PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., IN AN AMOUNT OF \$586,265; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Deerfield Beach (the “City”) issued Request for Qualifications #22-05-PC (the “RFQ”) for the Pioneer Grove Infrastructure Improvements – Pedestrian Lighting and Complete Streets Project (the “Project”); and

WHEREAS, following the oral presentations/interviews, the evaluation committee submitted their final rankings (the “Ranking”), with Kimley-Horn and Associates, Inc. (“Kimley-Horn”) as the top ranked, responsive and responsible proposer; and

WHEREAS, on January 4, 2022, the City Commission approved the Ranking, awarded the RFQ to Kimley-Horn, and authorized the City Manager to negotiate an agreement with Kimley-Horn; and

WHEREAS, Kimley-Horn has provided the City with a proposal for the design of the Project (the “Proposal”), which consists of professional survey, geotechnical, conceptual design services, and construction document design services (collectively, the “Services”), in an amount of \$586,265; and

WHEREAS, the Proposal also provides for additional optional design phase services, which may be negotiated and authorized by the City at a later date; and

WHEREAS, the City Commission finds it in the best interest of the City to approve the agreement with Kimley-Horn, attached as Exhibit “A,” for the Services for the Project (the “Agreement”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the Agreement with Kimley-Horn, attached as Exhibit “A,” for the Services for the Project in an amount of \$586,265.

Section 3. The City Manager is hereby authorized to execute the Agreement with Kimley-Horn, attached as Exhibit “A,” together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to take all necessary steps to implement the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

**AGREEMENT BETWEEN CITY OF DEERFIELD BEACH
AND KIMLEY-HORN AND ASSOCIATES, INC. FOR CONSULTANT SERVICES FOR
THE PIONEER GROVE INFRASTRUCTURE IMPROVEMENTS – PEDESTRIAN LIGHTING AND
COMPLETE STREETS PROJECT
(RFQ # 22-05-PC)**

This Agreement (“Agreement”) is made and entered by and between City of Deerfield Beach, Florida, a political subdivision of the State of Florida (“Municipality”), and Kimley-Horn and Associates, Inc., a foreign corporation (“Consultant”) (each a “Party” and collectively referred to as the “Parties”).

RECITALS

A. Municipality has met the requirements of Section 287.055, Florida Statutes, the Consultants’ Competitive Negotiation Act, and has selected Consultant to perform the services hereunder.

B. Municipality issued Request for Qualifications #22-05-PC (the “RFQ”) for the Pioneer Grove Infrastructure Improvements – Pedestrian Lighting and Complete Streets Project (the “Project”).

C. On January 4, 2022, the City Commission approved the ranking of the RFQ and authorized the City Manager to negotiate an agreement with the Consultant.

D. On February 1, 2022, the City Commission approved the award of this Agreement to the Consultant.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1 **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2 **Commission** means the governing body of Municipality, its successors and assigns.

1.3 **Contract Administrator** means the Director of Environmental Services, or such other person designated by Director of Environmental Services in writing. The Contract Administrator is the representative of Municipality concerning the Project.

1.4 **Contractor** means the person, firm, corporation, or other entity who enters into an agreement with Municipality to perform the construction work for the Project.

1.5 **County** means Broward County, a political subdivision of the State of Florida and representatives authorized by the Board of County Commissioners or the Broward County Charter to act on behalf of County.

1.6 **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.7 **Notice to Proceed** means a written authorization to proceed with the Project, phase, or task, issued by the Contract Administrator.

1.8 **Project** means the project described in Exhibit A.

1.9 **Purchasing Director** means Municipality's Purchasing Manager or designee authorized to execute Work Authorization provided for in Section 6.3.

1.10 **Services** means the work set forth in Exhibit A, Scope of Services, and shall include civil, structural, mechanical, and electrical engineering, architectural services, and other professional design services as applicable for the Project, and any Optional Services procured under this Agreement.

1.11 **Small Business Enterprise** or **SBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.12 **Subconsultant** means an entity or individual providing services to Municipality through Consultant for all or any portion of the work under this Agreement. The term "Subconsultant" shall include all subcontractors.

ARTICLE 2. EXHIBITS

Exhibit A	Scope of Services
Exhibit B	Maximum Billing Rates
Exhibit C	Minimum Insurance Requirements
Exhibit D	Work Authorization Form
Exhibit E	Schedule of Subconsultants

ARTICLE 3. SCOPE OF SERVICES

3.1 Consultant shall provide all Services as set forth in Exhibit A, including all necessary, incidental, and related activities required for full and complete performance of this Agreement (the "Scope of Services").

3.2 This Agreement does not delineate every detail and minor work task required to be performed by Consultant to complete the Project. If Consultant determines that work should be performed to complete the Project and, in Consultant's opinion, that work is outside the level of

effort originally anticipated, whether or not the Scope of Services identifies the work items, Consultant shall notify the Contract Administrator in writing in a timely manner before proceeding with the work. If Consultant proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to the Contract Administrator does not constitute authorization or approval by Municipality to Consultant to perform the work. Any such work that would entail additional compensation to Consultant by Municipality, or additional time for performance, shall require an amendment to this Agreement pursuant to Section 6.1 or a Work Authorization pursuant to Section 6.2. Unless there is an executed amendment or Work Authorization or a dispute as set forth in Section 6.4, any work performed by Consultant outside the originally anticipated level of effort without prior written Municipality approval shall be at no additional cost to Municipality.

3.3 Exhibit A identifies the initial services related to the Project, and additional negotiations may be required for other phases or additional services. Municipality and Consultant may negotiate additional services, compensation, time of performance, and other related matters, including for other phases of the Project. Notwithstanding the foregoing, Municipality shall have the right to terminate negotiations at any time at no cost to Municipality and procure services for other Project phases from any other source.

3.4 Municipality shall assist Consultant by placing at Consultant's disposal all information Municipality has available pertinent to the Project, including previous reports and any other data relative to the Project. Municipality shall arrange for access to, and make all provisions for, Consultant to enter upon public and private property as required for Consultant to perform its Services. Municipality shall review any itemized deliverables and documents required to be submitted by Consultant and respond in writing with any comments within the time set forth in Exhibit A. Municipality shall give prompt written notice to Consultant whenever Municipality observes or otherwise becomes aware of any material defect in the work of Contractor or Subconsultants, or other material development that affects the scope or timing of Consultant's Services.

ARTICLE 4. TIME FOR PERFORMANCE; DAMAGES

4.1 Consultant shall perform the Services within the time periods specified in Exhibit A. Time periods shall commence from the date of the applicable Notice to Proceed.

4.2 Consultant must receive a Notice to Proceed from the Contract Administrator prior to commencement of Services and any phase of Services under this Agreement. Prior to granting approval for Consultant to proceed to any phase, the Contract Administrator may, at the Contract Administrator's sole option, require Consultant to submit the itemized deliverables and documents identified in Exhibit A for the Contract Administrator's review.

4.3 If the Contract Administrator determines that Consultant is unable to timely complete all or any portion of the Services because of delays resulting from untimely review by Municipality

or other governmental agencies having jurisdiction over the Project and such delays are not the fault of Consultant, or because of delays caused by factors outside the control of Consultant, Municipality shall grant a reasonable extension of time for completion of the Services. It shall be the responsibility of Consultant to notify the Contract Administrator in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and whenever a delay has been caused by factors outside of Consultant's control, and to inform the Contract Administrator of all facts and details related to the delay. Consultant must provide such written notice to the Contract Administrator within three (3) business days after the occurrence of the event causing the delay.

4.4 If (a) Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, or (b) if Contractor is granted an extension of time beyond said substantial completion date and Consultant's Services are extended beyond the substantial completion date through no fault of Consultant, then Consultant shall be compensated in accordance with Article 5 for all Services rendered by Consultant beyond the substantial completion date.

4.5 Notwithstanding Section 4.4, if Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, and the failure to substantially complete is caused in whole or in part by Consultant, then Consultant shall pay to Municipality its proportional share of any claim for damages to Contractor arising out of the delay. The provisions for the computation of delay costs, damages, or any other amounts, whether direct or indirect, in the agreement between the Contractor and Municipality are incorporated herein. This section shall not affect the indemnification rights or obligations of either Party otherwise set forth in this Agreement.

ARTICLE 5. COMPENSATION AND METHOD OF PAYMENT

5.1 Amount and Method of Compensation. The amounts set forth in this Article 5 are the total compensation payable to Consultant and constitute a limitation upon Municipality's obligation to compensate Consultant for Services under this Agreement, but do not constitute a limitation of any sort upon Consultant's obligation to perform all Services required under this Agreement.

5.1.1 Maximum Amount Not-To-Exceed Compensation. For Basic Services identified in Exhibit A as payable on a "Maximum Amount Not-To-Exceed" basis, compensation to Consultant shall be based upon the Salary Costs as described in Section 5.2 up to a maximum not-to-exceed amount of \$ 586,265.

5.1.2 Lump Sum Compensation. For Basic Services identified in Exhibit A as payable on a "Lump Sum" basis, compensation to Consultant shall be not more than a total lump sum of \$N/A.

5.1.3 Optional Services. Municipality may procure Optional Services at an amount to

be negotiated at a later date pursuant to Article 6. Unused amounts of these Optional Services monies shall be retained by Municipality.

5.1.4 Reimbursable Expenses. Municipality will reimburse Municipality-authorized Reimbursable Expenses as defined in Section 5.3 up to a maximum not-to-exceed amount of \$5,000.00. Unused amounts of those monies shall be retained by Municipality.

5.1.5 Salary Costs. The maximum billing rates ("Maximum Billing Rates") payable by Municipality for each of Consultant's employee categories are shown on Exhibit B and are further described in Section 5.2.

5.1.6 Subconsultant Fees. Consultant shall bill Municipality for Subconsultant fees using the employee categories for Salary Costs on Exhibit B as defined in Section 5.2 and Reimbursable Expenses defined in Section 5.3. Consultant shall bill Subconsultant fees with no mark-up and within any applicable maximum not to exceed amount.

5.1.7 Phased Amounts. Payments for Basic Services shall be paid out pursuant to the Project phasing specified in Exhibit A and shall not exceed the amount set forth below for the applicable phase. The invoiced fee amount for each phase shall be subject to retainage as set forth in Section 5.5.

Project Phase	Fee %	Phase Amount
TASK 1: Project Management	8%	\$44,400
TASK 2: Schematic Design	13%	\$79,690
TASK 3: Design Development	24%	\$138,275
TASK 4: Construction Documents	30%	\$178,435
TASK 5: Spot Utility Verification, Geotechnical & Survey	24%	\$140,465
Reimbursable Expense	1%	\$5000_
Total Basic Services Fee	100%	\$586,265

5.2 Salary Costs. The term "Salary Costs" as used herein shall mean the hourly rate actually paid to all personnel engaged directly on the Project, as adjusted by an overall multiplier that consists of the following: 1) a fringe benefits factor; 2) an overhead factor; and 3) an operating margin. Said Salary Costs are to be used only for time directly attributable to the Project. The fringe benefit and overhead rates shall be Consultant's most recent and actual rates determined in accordance with Federal Acquisition Regulation ("FAR") guidelines and audited by an independent Certified Public Accountant. For the purposes of this Agreement, the rates must be audited for fiscal periods of Consultant within eighteen (18) months preceding the execution date of this Agreement. These rates shall remain in effect for the term of this Agreement except as provided for in the Agreement.

5.2.1 Consultant shall require all of its Subconsultants to comply with the requirements of Section 5.2.

5.2.2 Salary Costs for Consultant and Subconsultants as shown in Exhibit B are the Maximum Billing Rates, which are provisional, subject to audit of actual costs, and if the audit discloses that the actual costs are less than the costs set forth on Exhibit B for Consultant or any Subconsultant, Consultant shall reimburse Municipality based upon the actual costs determined by the audit. Municipality may withhold the amount Consultant is required to reimburse Municipality from any payment due Consultant.

5.2.3 Unless otherwise noted, the Salary Costs stated above are based upon Consultant's "home office" rates. Should it become appropriate during the course of this Agreement that a "field office" rate be applied, then it is incumbent upon Consultant to submit a supplemental Exhibit B reflective of such rates for approval by Contract Administrator and, upon such Municipality's approval, invoice Municipality accordingly.

5.2.4 The total hours payable by Municipality for any "exempt" or "nonexempt" personnel shall not exceed forty (40) hours per employee in any week. If the work requires Consultant's or Subconsultant's personnel to work in excess of forty (40) hours per week, any additional hours must be authorized in advance, in writing, by the Contract Administrator. If approved, Salary Costs for additional hours of service provided by nonexempt (hourly) employees or exempt (salaried) employees shall be invoiced at no more than one and one-half of the employee's hourly rate and in a manner consistent with Consultant's or Subconsultant's applicable certified FAR audit and all other provisions of Section 5.2. If a "Safe Harbor" rate is elected for use by Consultant or Subconsultant, then the additional hours are payable at no more than the employee's regular rate.

5.2.5 Consultant and any of its Subconsultants may alternatively use a "Safe Harbor" combined fringe benefit and overhead rate of 110% in lieu of providing fringe benefit and overhead cost factors certified by an independent Certified Public Accountant in accordance with the FAR guidelines. The Safe Harbor rate, once elected, shall remain in place for the entire term of this Agreement, and be applicable for use as "home" and "field" fringe benefit and overhead rates, if applicable, and shall not be subject to audit under this Agreement. All other provisions of Section 5.2 remain in place.

5.3 Reimbursable Expenses. For reimbursement of any travel costs, travel-related expenses, or other direct nonsalary expenses directly attributable to this Project permitted under this Agreement, Consultant agrees to adhere to Section 112.061, Florida Statutes, except to the extent otherwise stated herein. Municipality shall not be liable for any such expenses that have not been approved in writing in advance by the Contract Administrator. Reimbursable Subconsultant expenses must also comply with the requirements of this section.

5.4 Method of Billing.

5.4.1 For Maximum Amount Not-To-Exceed Compensation. Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely

manner for all Salary Costs and Reimbursable Expenses attributable to the Project. These billings shall identify the nature of the work performed, the total hours of work performed, and the employee category of the individuals performing same. Billings shall itemize and summarize Reimbursable Expenses by category and identify the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for Reimbursable Expenses, a copy of said approval shall accompany the billing for such reimbursable. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of Salary Costs and Reimbursable Expenses with accrual of the total and credits for portions paid previously. External Reimbursable Expenses and Subconsultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain a project number or other identifier that clearly indicates the expense is identifiable to the Project. Subsequent addition of the identifier to the invoice or receipt by Consultant is not acceptable except for meals and travel expenses. Internal expenses must be documented by appropriate Consultant's cost accounting forms with a summary of charges by category. When requested, Consultant shall provide backup for past and current invoices that records hours and Salary Costs by employee category, Reimbursable Expenses by category, and Subconsultant fees on a task basis, so that total hours and costs by task may be determined.

5.4.2 For Lump Sum Compensation. Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner. These billings shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished. Billings for each phase shall not exceed the amounts allocated to said phase. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, Consultant shall provide backup for past and current invoices that record hours, salary costs, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.5 Method of Payment.

5.5.1 Municipality shall pay Consultant within thirty (30) days after receipt of Consultant's proper invoice, as defined by the Local Government Prompt Payment Act, minus any applicable retainage or other deductions permitted by this Agreement.

5.5.2 Reserved.

5.5.3 Reserved.

5.5.4 Payment will be made to Consultant at the following address:

For	Electronic	Payment:
ABA#:	121000248	
Bank Name and Address:	Wells Fargo Bank N.A. San Francisco, CA 94163	
Account Number:	207 3089 159 554	
Account Name:	Kimley-Horn and Associates, Inc.	

For Payment by Check: Kimley-Horn and Associates, Inc. PO Box 932520 Atlanta, Georgia 31193-2520.

5.6 Fiscal Year. The continuation of this Agreement beyond the end of any Municipality fiscal year is subject to both the appropriation and the availability of transportation surtax funds in accordance with Title XI, Chapter 129, Florida Statutes.

5.7 Consultant must pay Subconsultants and suppliers providing Services under this Agreement within fifteen (15) days after receipt of payment from Municipality for such subcontracted work or supplies. If Consultant withholds an amount as retainage from a Subconsultant or supplier, Consultant shall release such retainage and pay same within fifteen (15) days after receipt of payment of retained amounts from Municipality. The Contract Administrator may, at its option, increase allowable retainage or withhold progress payments unless and until Consultant demonstrates timely payments of sums due to all Subconsultants and suppliers. Consultant shall include requirements substantially similar to those set forth in this section in its contracts with Subconsultants and suppliers.

5.8 Withholding by Municipality. Notwithstanding any provision of this Agreement to the contrary, Municipality may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) Consultant's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by Municipality.

5.9 Foreign Entity Tax Withholding. Amounts due to certain foreign persons or entities may be subject to backup withholding taxes under federal law. If Consultant is a foreign person or entity that is required to complete Internal Revenue Service ("IRS") Form W-8ECI, Consultant shall provide Municipality a copy of Consultant's current Form W-8ECI prior to issuance of any invoice or payment under this Agreement. If Consultant fails to timely provide a completed, current Form W-8ECI, Municipality will withhold all backup withholding taxes from the amounts due Consultant, remit such sums to the IRS, and pay Consultant only the remainder. Municipality makes no representation regarding the tax treatment of amounts due to Consultant, and

Consultant releases and holds Municipality harmless from any claims or damages in any way relating to or arising from any tax withholding by Municipality pursuant to this section.

ARTICLE 6. OPTIONAL AND ADDITIONAL SERVICES; CHANGES IN SCOPE OF SERVICES

6.1 Municipality or Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Unless otherwise expressly permitted herein, such changes must be made in accordance with the provisions of the Municipality's procurement code and policies and must be contained in a written amendment.

6.2 If any goods or services under this Agreement, or the quantity thereof, are identified as optional ("Optional Services"), Municipality may select the type, amount, and timing of such goods or services pursuant to a work authorization ("Work Authorization") in substantially the form attached as [Exhibit D](#) executed by Consultant and Municipality pursuant to this section. No such selection, when combined with those goods or services required under this Agreement, may result in a payment obligation exceeding the applicable maximum amount stated in Article 5. A Work Authorization for Optional Services shall specify the method of compensation applicable to that Work Authorization and the required completion date for those additional services.

6.3 Notwithstanding anything to the contrary in this Agreement, Work Authorizations (and amendments thereto) for Optional Services shall be executed on behalf of Municipality as follows: (a) the City Manager may execute Work Authorizations for which the total cost to Municipality in the aggregate is less than \$30,000.00; (b) the Purchasing Director may execute Work Authorizations for which the total cost to Municipality in the aggregate is within the Purchasing Director's delegated authority; and (c) any Work Authorization above the City Manager's authority requires express approval by the Commission. Consultant shall not commence work on any Work Authorization until after receipt of a purchase order and issuance of a Notice to Proceed by the Contract Administrator.

6.4 If a dispute between the Contract Administrator and Consultant arises over whether any work requested by Municipality is within the scope of contracted Services and such dispute cannot be resolved by the Contract Administrator and Consultant, such dispute shall be promptly presented to the Municipality Manager or designee for resolution, whose decision shall be in writing and shall be final and binding on the Parties. During the pendency of any dispute, Consultant shall promptly perform the undisputed work, presuming Municipality continues to pay Consultant for undisputed amounts owed.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1 Representation of Authority. Consultant represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Consultant, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Consultant has with any third party or violates Applicable Law. Consultant further represents

and warrants that execution of this Agreement is within Consultant's legal powers, and each individual executing this Agreement on behalf of Consultant is duly authorized by all necessary and appropriate action to do so on behalf of Consultant and does so with full legal authority.

7.2 Claims Against Consultant. Consultant represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental, or other board or official, pending or, to the knowledge of Consultant, threatened against or affecting Consultant, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Consultant to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Consultant or on the ability of Consultant to conduct its business as presently conducted or as proposed or contemplated to be conducted.

7.3 Solicitation Representations. Consultant represents and warrants that all statements and representations made in Consultant's proposal, bid, or other supporting documents submitted to Municipality in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Consultant executes this Agreement, unless otherwise expressly disclosed in writing by Consultant.

7.4 Contingency Fee. Consultant represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If this Agreement is subject to Section 287.055, Florida Statutes, the Parties agree and stipulate that the statutory language stated in Section 287.055(6)(a) is deemed included and fully incorporated herein.

7.5 Truth-In-Negotiation Representation. Consultant's compensation under this Agreement is based upon its representations to Municipality, and Consultant certifies that the wage rates, factual unit costs, and other information supplied to substantiate Consultant's compensation, including, without limitation, in the negotiation of this Agreement, are accurate, complete, and current as of the date Consultant executes this Agreement. Consultant's compensation will be reduced to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

7.6 Public Entity Crime Act. Consultant represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Consultant further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Consultant has been placed on the convicted vendor list.

7.7 Discriminatory Vendor and Scrutinized Companies Lists. Consultant represents that it has not been placed on the “discriminatory vendor list” as provided in Section 287.134, Florida Statutes, and that it is not a “scrutinized company” pursuant to Sections 215.473 or 215.4725, Florida Statutes. Consultant represents and certifies that it is not, and for the duration of the Agreement will not be, ineligible to contract with Municipality on any of the grounds stated in Section 287.135, Florida Statutes.

7.8 Verification of Employment Eligibility. Consultant represents that Consultant and each Subconsultant have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Contractor violates this section, Municipality may immediately terminate this Agreement for cause and Contractor will be liable for all costs incurred by Municipality due to the termination.

7.9 Reserved.

7.10 Warranty of Performance. Consultant represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all required and optional Services under this Agreement, and that each person and entity that will provide Services is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render such Services. Consultant represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

7.11 Prohibited Telecommunications Equipment. Consultant represents and certifies that it and its Subconsultants do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Consultant represents and certifies that Consultant and its Subconsultants shall not provide or use such covered telecommunications equipment, system, or services for the duration of this Agreement.

7.12 Breach of Representations. Consultant acknowledges that Municipality is materially relying on the representations, warranties, and certifications of Consultant stated in this article, and Municipality shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to Consultant; (c) set off from any amounts due Consultant the full amount of any damage incurred; and (d) debarment of Consultant.

ARTICLE 8. TERMINATION

8.1 Termination. This Agreement or any Work Authorization issued under this Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated for convenience by the Municipality. Termination for convenience by the Municipality shall be effective on the termination date stated in written notice provided by Municipality, which termination date shall be not less than thirty (30) days after the date of such written notice. If this Agreement or any Work Authorization was approved by Commission action, termination for cause by Municipality of the Agreement or Work Authorization, as applicable, must be by action of the Commission or such other officer of Municipality designated by the Commission; in all other instances termination for cause may be effected by the Municipality's representative expressly authorized under this Agreement (including any successor) who executed the Agreement or the Work Authorization, as applicable, on behalf of Municipality. This Agreement may also be terminated by the Municipality Manager upon such notice as the Municipality Manager deems appropriate under the circumstances if the Municipality Manager determines that termination is necessary to protect the public health, safety, or welfare. If Municipality erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause was provided and Consultant shall be eligible for the compensation provided in Section 8.4 as its sole remedy.

8.2 This Agreement or any Work Authorization may be terminated for cause by Municipality for reasons including, but not limited to, any of the following:

8.2.1 Consultant's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or Work Authorization, or repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices;

8.2.2 By the Contract Administrator for any fraud, misrepresentation, or material misstatement by Consultant in the award or performance of this Agreement or that violates any applicable requirement of Section 1-81, Broward County Code of Ordinances; or

8.2.3 By the Contract Administrator upon the disqualification of Consultant as a CBE or SBE if Consultant's status as a CBE or SBE was a factor in the award of this Agreement and such status was misrepresented by Consultant, or upon the disqualification of one or more of Consultant's CBE or SBE participants by County's Director of the Office of Economic and Small Business Development (OESBD) if any such participant's status as a CBE or SBE firm was a factor in the award of this Agreement and such status was misrepresented by Consultant during the procurement or the performance of this Agreement.

8.3 Notice of termination shall be provided in accordance with the “Notices” section of this Agreement except that notice of termination by the Municipality Manager to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

8.4 If this Agreement or a Work Authorization issued under this Agreement is terminated for convenience, Consultant shall be paid for any Services properly performed under this Agreement or Work Authorization through the termination date specified in the written notice of termination, subject to any right of Municipality to retain any sums otherwise due and payable. Consultant acknowledges that it has received good, valuable, and sufficient consideration for Municipality’s right to terminate this Agreement for convenience in the form of Municipality’s obligation to provide advance notice to Consultant of such termination in accordance with Section 8.1.

8.5 In addition to any termination rights stated in this Agreement, Municipality shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

ARTICLE 9. INSURANCE

9.1 For the duration of the Agreement, Consultant shall, at its sole expense, maintain the minimum insurance coverages stated in [Exhibit C](#) in accordance with the terms and conditions of this article. Consultant shall maintain insurance coverage against claims relating to any act or omission by Consultant, its agents, representatives, employees, or Subconsultants in connection with this Agreement. Municipality reserves the right at any time to review and adjust the limits and types of coverage required under this article.

9.2 Consultant shall ensure that Municipality “City of Deerfield Beach, 150 NE 2nd Ave, Deerfield Beach, FL 33441” and “Broward County, 115 S. Andrews Avenue, Fort Lauderdale, Florida 33301” are both listed and endorsed as additional insureds as stated in Exhibit C on all policies required under this article, except workers’ compensation and professional liability.

9.3 On or before the date this Agreement is fully executed or at least fifteen (15) days prior to commencement of Services, Consultant shall provide Municipality with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by Municipality, Consultant shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after Municipality’s request.

9.4 Consultant shall ensure that all insurance coverages required by this article shall remain in full force and effect without any lapse in coverage for the duration of this Agreement and until all performance required by Consultant has been completed, as determined by Contract Administrator. Consultant or its insurer shall provide notice to Municipality any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any

cancellation due to nonpayment, and shall concurrently provide Municipality with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

9.5 All required insurance policies must be issued by insurers: (1) assigned an AM Best rating of at least “A-” with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by Municipality’s Risk Management Division.

9.6 All required insurance coverages shall provide primary coverage and not require contribution from any Municipality insurance, self-insurance or otherwise. All insurance held by Municipality, as well as Municipality’s self-insurance, shall be in excess of and shall not contribute to the required insurance provided by Consultant.

9.7 Consultant shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in [Exhibit C](#) and submit to Municipality for approval at least fifteen (15) days prior to the date this Agreement is fully executed or commencement of Services. Consultant shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against Municipality. Municipality may, at any time, require Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Consultant agrees that any deductible or self-insured retention may be satisfied by either the named insured or Municipality, if so elected by Municipality, and Consultant agrees to obtain same in endorsements to the required policies.

9.8 Unless prohibited by the applicable policy, Consultant waives any right to subrogation that any of Consultant’s insurer may acquire against Municipality and agrees to obtain same in an endorsement of Consultant’s insurance policies required under this article including any excess or umbrella policies.

9.9 Consultant shall require that each Subconsultant maintains insurance coverage that adequately covers the Services provided by that Subconsultant on substantially the same insurance terms and conditions required of Consultant under this article. Consultant shall ensure that all such Subconsultants comply with these requirements and that Municipality and “Broward County” are both named as additional insureds under the Subconsultants’ applicable insurance policies. Consultant shall not permit any Subconsultant to provide Services unless and until all applicable requirements of this article are satisfied.

9.10 If Consultant or any Subconsultant fails to maintain the insurance required by this Agreement, Municipality may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Consultant. If requested by Municipality, Consultant shall provide, within one (1) business day, evidence of each Subconsultant’s compliance with this section.

9.11 If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the date this Agreement is fully executed; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit C; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the date this Agreement is fully executed, Consultant must obtain and maintain “extended reporting” coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit C.

ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY

10.1 No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Consultant shall include the foregoing or similar language in its contracts with any Subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2 Consultant shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, in the award and administration of this Agreement. Failure by Consultant to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit Municipality to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other Applicable Law, all such remedies being cumulative.

10.3 Reserved.

10.4 Reserved.

10.5 Reserved.

10.6 Consultant acknowledges that County may make minor administrative modifications to Section 1-81, Broward County Code of Ordinances, which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Consultant and shall include a deadline for Consultant to notify Municipality in writing if Consultant concludes that the modification exceeds the authority under this section. Failure of Consultant to timely notify Municipality of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Consultant.

10.7 Reserved.

10.8 Reserved.

ARTICLE 11. MISCELLANEOUS

11.1 Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Consultant to manage and supervise the performance of this Agreement. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Municipality's codes or policies, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement provided that such instructions and determinations do not change the Scope of Services. The Contract Administrator may designate one or more of Municipality's employees with authority pertaining to day-to-day Project management or activities. Consultant shall notify Contract Administrator in writing of Consultant's representative(s) to whom matters involving the Project shall be addressed.

11.2 Rights in Documents and Work. Any and all documents, reports, studies, photographs, surveys, drawings, maps, models, photographs, specifications, materials, data, or other work created by Consultant in connection with performing Services, whether finished or unfinished ("Documents and Work"), shall be owned by Municipality, and Consultant hereby transfers to Municipality all right, title, and interest, including any copyright or other intellectual property rights, in or to the Documents and Work. Upon expiration or termination of this Agreement, the Documents and Work shall become the property of Municipality and shall be delivered by Consultant to the Contract Administrator within fifteen (15) days after expiration or termination. Any compensation due to Consultant may be withheld until all Documents and Work are received as provided in this Agreement. Consultant shall ensure that the requirements of this section are included in all agreements with its Subconsultant(s). All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement. They are not intended or represented to be suitable for use or reuse by the Municipality or others on extensions of this project or on any other project. Any modifications by the Municipality to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Municipality's sole risk and without liability to the Consultant.

11.3 Living Wage Requirement. Unless this Agreement is exempt under federal law, to the extent Consultant is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Consultant agrees to and shall pay to all of its employees providing "covered services," as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Consultant shall ensure all of its Subconsultants that qualify as "covered employers" fully comply with the requirements of such ordinance.

11.4 Public Records. To the extent Consultant is acting on behalf of Municipality as stated in Section 119.0701, Florida Statutes, Consultant shall:

11.4.1 Keep and maintain public records required by Municipality to perform the services under this Agreement;

11.4.2 Upon request from Municipality, provide Municipality with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

11.4.3 Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to Municipality; and

11.4.4 Upon completion or termination of this Agreement, transfer to Municipality, at no cost, all public records in possession of Consultant or keep and maintain public records required by Municipality to perform the services. If Consultant transfers the records to Municipality, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt. If Consultant keeps and maintains the public records, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Municipality upon request in a format that is compatible with the information technology systems of Municipality.

11.4.5 A request for public records regarding this Agreement must be made directly to Municipality, who will be responsible for responding to any such public records requests. Consultant will provide any requested records to Municipality to enable Municipality to respond to the public records request.

11.4.6 Any material submitted to Municipality that Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, Consultant must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If that a third party submits a request to Municipality for records designated by Consultant as Trade Secret Materials, Municipality shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Consultant. Consultant shall indemnify and defend Municipality and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

**IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF
CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE**

PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

City Custodian of Public Records: SAMANTHA GILLYARD, CITY CLERK

Mailing address: 150 N.E. 2ND AVE.,
DEERFIELD BEACH, FL 33441
Telephone number: 954-480-4213
Email: WEB.CLERK@DEERFIELD-BEACH.COM

11.5 Audit Rights and Retention of Records. Consultant shall preserve all Contract Records (as defined below) for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to inspection and subject to audit and reproduction during normal business hours. Audits and inspections pursuant to this section may be performed by any representative of Municipality and/or County (including any outside representative engaged by either entity). Municipality and County may conduct audits or inspections at any time during the term of this Agreement and for a period of three (3) years after the expiration or termination of this Agreement (or longer if required by Applicable Law, Municipality, and/or County). County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Consultant's employees, Subconsultants, vendors, or other labor.

11.5.1 Contract Records include any and all information, materials and data of every kind and character, including, without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance under this Agreement. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance under this Agreement, whether by Consultant or Subconsultants.

11.5.2 Municipality and Broward County shall have the right to audit, review, examine, inspect, analyze, and make copies of all Contract Records at a location within Broward County, Florida. Consultant hereby grants Municipality and County the right to conduct such audit or review at Consultant's place of business, if deemed appropriate by Municipality or Broward County, with seventy-two (72) hours' advance notice. Consultant agrees to provide adequate and appropriate workspace for such review. Consultant shall provide Municipality and County with

reasonable access to Consultant's facilities, and Municipality and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

11.5.3 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Municipality's disallowance and recovery of any payment upon such entry.

11.5.4 If an audit or inspection in accordance with this section discloses overpricing or overcharges to Municipality of any nature by Consultant or its Subconsultants in excess of five percent (5%) of the total contract billings reviewed, in addition to making adjustments for the overcharges, Consultant shall pay the actual cost of the audit or, if the actual cost is unreasonably high, the reasonable cost. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of the audit findings to Consultant.

11.5.5 Consultant shall, by written contract, require its Subconsultants to agree to the requirements and obligations as stated in Sections 11.4 and 11.5.

11.6 Subconsultants. Consultant shall utilize only the Subconsultants identified in [Exhibit E](#), Schedule of Subconsultants, to provide the Services for this Project. Consultant shall obtain written approval of Contract Administrator prior to changing or modifying the Schedule of Subconsultants, which shall be automatically updated upon such written approval. Consultant shall bind in writing each and every approved Subconsultant to the terms stated in this Agreement, provided that this provision shall not, in and of itself, impose the insurance requirements set forth in Article 9 on Consultant's Subconsultants.

11.7 Assignment. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit the non-assigning Party to immediately terminate this Agreement, in addition to any other remedies available to the non-assigning Party at law or in equity. Municipality reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to Municipality to reasonably compensate it for the performance of any such due diligence.

11.8 Indemnification of Municipality. Consultant shall indemnify and hold harmless Municipality and its current, past, and future officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by Contract Administrator and Municipality Attorney, any sums due Consultant under this Agreement may be retained by Municipality until all of Municipality's

claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by Municipality.

11.9 Prior Agreements. This Agreement is the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

11.10 Amendments. Unless otherwise expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of Municipality and Consultant.

11.11 Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Addresses may be changed by the applicable Party providing notice of such change in accordance with this section.

FOR MUNICIPALITY:

City of Deerfield Beach
Attn: David Santucci, City Manager
120 NE 2nd Ave
Deerfield Beach, Florida 33441
Email address: dsantucci@deerfield-beach.com

FOR CONSULTANT:

Kimley-Horn and Associates
Attn: Burt Baldo, Project Manager
355 Alhambra Circle, Suite 1400
Coral Gables, Florida 33134
Email address: _burt.baldo@kimley-horn.com

11.12 Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

11.13 Consultant's Staff. Consultant will provide the key staff identified in its proposal for Project as long as said key staff are in Consultant's employment. Consultant will obtain prior written approval of Contract Administrator to change key staff. Consultant shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator will be reasonable in evaluating key staff qualifications. If Contract Administrator desires to request removal of any of Consultant's staff, Contract Administrator shall first meet with Consultant and provide reasonable justification for said removal; upon such reasonable justification, Consultant shall use good faith efforts to remove or reassign the staff at issue.

11.14 Drug-Free Workplace. To the extent required under Section 21.31(a)(2), Broward County Administrative Code, or Section 287.087, Florida Statutes, Consultant certifies that it has and will maintain a drug-free workplace program for the duration of this Agreement.

11.15 Independent Contractor. Consultant is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services under this Agreement, neither Consultant nor its agents shall act as officers, employees, or agents of Municipality, except as authorized by the Contract Administrator for permitting, licensing, or other regulatory requirements. Consultant shall not have the right to bind Municipality to any obligation not expressly undertaken by Municipality under this Agreement.

11.16 Regulatory Capacity. Notwithstanding the fact that Municipality is a political subdivision with certain regulatory authority, Municipality's performance under this Agreement is as a Party to this Agreement and in the capacity of Municipality as owner of the Project. If Municipality exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to Municipality's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to Municipality as a Party to this Agreement.

11.17 Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by Municipality nor shall anything included herein be construed as consent by Municipality to be sued by third parties in any matter arising out of this Agreement. Municipality is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

11.18 Third-Party Beneficiaries. Except for County to the extent expressly identified herein, neither Consultant nor Municipality intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that, other than County, there are no third-party beneficiaries to this Agreement and that no third party other than County shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.19 Reserved.

11.20 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.21 Compliance with Laws. Consultant and the Services must comply with all Applicable Law, including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

11.22 Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.23 Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either Party.

11.24 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect.

11.25 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

11.26 Reuse of Project. Municipality may, at its option, reuse (in whole or in part) the resulting end-product or deliverables resulting from Consultant's Services (including, but not limited to, drawings, specifications, other documents, and services as described herein and in Exhibit A); and Consultant agrees to such reuse in accordance with this provision. If the Contract Administrator elects to reuse the services, drawings, specifications, and other documents, in whole or in part,

prepared for this Project for other projects on other sites, Consultant will be paid a reuse fee to be negotiated between Consultant and Municipality, subject to approval by the proper awarding authority. Each reuse shall include all Basic Services and modifications to the drawings, specifications, and other documents normally required to adapt the design documents to a new site. This reuse may include preparation of reverse plans, changes to the program, provision for exceptional site conditions, preparation of documents for off-site improvements, provisions for revised solar orientation, provisions for revised vehicular and pedestrian access, and modifications to building elevations, ornament, or other aesthetic features. In all reuse assignments, the design documents shall be revised to comply with building codes and other jurisdictional requirements current at the time of reuse for the new site location. The terms and conditions of this Agreement shall remain in force for each reuse project, unless otherwise agreed by the Parties in writing.

11.27 Payable Interest.

11.27.1 Payment of Interest. Unless prohibited by Applicable Law, Municipality shall not be liable for interest to Consultant for any reason, whether as prejudgment interest or for any other purpose, and Consultant waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.27.2 Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by Municipality under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.28 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.29 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.30 Reserved.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Municipality, City of Deerfield Beach through its Commission, signing by and through its City Manager authorized to execute same by Commission action on the _____ day of February, 2022, and CONSULTANT, signing by and through its _____, duly authorized to execute same.

MUNICIPALITY

WITNESS:

Signature of Witness

By: _____
David Santucci, City Manager

Print or Type Name of Witness

_____ day of _____, 2022

Signature of Witness

Print or Type Name of Witness

ATTEST:

Samantha Gillyard, City Clerk

Approved as to legal form by:

Anthony C. Soroka, City Attorney

**AGREEMENT BETWEEN CITY OF DEERFIELD BEACH
AND KIMLEY-HORN AND ASSOCIATES, INC. FOR CONSULTANT SERVICES FOR
THE PIONEER GROVE INFRASTRUCTURE IMPROVEMENTS – PEDESTRIAN LIGHTING AND
COMPLETE STREETS PROJECT
(RFQ # 22-05-PC)**

FOR CORPORATION:

Consultant

ATTEST:

Kimley-Horn and Associates, Inc.

Secretary

By _____
President/Vice President

(Typed Name of Secretary)

(Typed Name and Title)

CORPORATE SEAL

___ day of _____, 20__.

Exhibit A
Scope of Services

Exhibit B
Maximum Billing Rates

Project No: DEER-005/6
 Project Title: Pioneer Grove Infrastructure Improvements – Pedestrian Lighting And Complete Streets Project
 Consultant/ Subconsultant Name: Kimley-Horn and Associates, Inc.

TITLE	MAXIMUM HOURLY RATE (\$/HR)	X	MULTIPLIER	=	MAXIMUM BILLING RATE (\$/HR)
			3.2425		
Principal	\$100.00		3.2425		\$324.25
Project Manager	\$81.74		3.2425		\$265.04
Chief Engineer	\$93.33		3.2425		\$302.62
Chief Planner	\$93.33		3.2425		\$302.62
Senior Engineer	\$93.33		3.2425		\$302.62
Senior Planner	\$87.98		3.2425		\$284.98
Designer	\$61.54		3.2425		\$199.54
Project Engineer	\$80.30		3.2425		\$260.37
Project Planner	\$81.92		3.2425		\$265.62
Engineer	\$64.44		3.2425		\$208.94
Planner	\$54.82		3.2425		\$177.75
GIS Specialist	\$65.40		3.2425		\$212.06
Analyst	\$43.28		3.2425		\$140.33
Senior Project Specialist	\$53.38		3.2425		\$173.08
Project Specialist	\$36.79		3.2425		\$119.29

Multiplier of 3.2425 is calculated as follows:

OVERHEAD = 135.00%

%FRINGE = 59.77%

OPERATING MARGIN = 10.00%

MULTIPLIER = $(1 + \text{OVERHEAD} + \text{FRINGE} + ((1 + \text{OVERHEAD} + \text{FRINGE}) \times \text{OPERATINGMARGIN})) / 1$

Consultant

Municipality

Name/Title

Contract Administrator

[Municipal Form Consultant Agreement]

[BCF #202 5/1/2021]

Date: _____

Date: _____

Exhibit C
Minimum Insurance Requirements

1. General

- a. Consultant shall furnish to the Purchasing and Contract Administration Division a Certificate of Insurance or endorsements evidencing the insurance coverage specified herein. The required Certificates of Insurance shall name the types of policies provided, refer specifically to the Agreement (Solicitation Title and Number), and state that such insurance is as required by this Agreement. Consultant's failure to provide to City the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days of notification of award shall provide the basis for the termination of the Agreement.
- b. Such policy or policies shall be issued by approved companies authorized to do business in the State of Florida. Consultant shall be responsible to pay all deductible amounts, if any. Consultant shall specifically protect City and the Deerfield Beach City Commission by naming City and the Deerfield Beach City Commission as additional insured under all required liability policies except for Workers Compensation and secure waivers of subrogation, in favor of the City of Deerfield Beach, on all liability and workers' compensation policies.
- c. Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Consultant is complete including all renewal terms. All policies must be endorsed to provide City with at least thirty (30) days' notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.
- d. City reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work or specifications that affect the applicability of coverage. If Consultant uses a subconsultant, Consultant shall ensure that subconsultant names City and the Deerfield Beach City Commission as additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage.

2. Coverages

Consultant shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement the following insurance as indicated with exes:

- ☒ **Commercial Liability Insurance** - A Commercial Liability Insurance Policy shall be provided which shall contain limits of no less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury liability, personal injury liability and property damage liability on a per project basis and shall contain limits of no less than a Two Million Dollars (\$2,000,000.00) aggregate.

Coverage must be afforded on a form no more restrictive than CG 20 10 10 01 and CG 20 37 10 01 Commercial Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: premises and operations, independent Consultants, products and/or completed operations for contracts, broad form contractual coverage applicable to this specific Agreement including any hold harmless and/or indemnification Agreement, personal injury coverage with employee and contractual exclusions removed and policy limits shall be applied on a primary and non-contributory basis.

- ☒ **Professional Liability (Errors & Omissions) Insurance** - Professional Liability Insurance with the limits of liability provided by such policy for each claim and on a claim made basis or on an occurrence basis to be no less than one million Dollars (\$1,000,000.00) per occurrence with a limit of no less than two million dollars (\$2,000,000.00) aggregate with a deductible per claim not to exceed ten percent (10%) of the limit of liability. Consultant(s) shall notify the City in writing within thirty (30) days of any claim filed or made against its Professional Liability Insurance Policy. Consultant(s) acknowledges that the City is relying on the competence of the Consultant to design a project to meet its functional intent. If it is determined during construction of a project that changes must be made due to Consultant's negligent errors and omissions, Consultant shall promptly rectify them at no cost to City and shall be responsible for additional costs, if any, of a project to the proportional extent caused by such negligent errors or omissions.
- ☒ **Business Automobile Liability** - Business Automobile Liability shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence or combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must at a minimum include liability coverage symbols: 2 (owned vehicles), 8 (hired vehicles) and 9 (non-owned vehicles).
- ☒ **Workers Compensation Insurance** - Workers' Compensation insurance to apply for all employees in compliance with Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable Federal laws. In addition, the policy(ies) must include employers' liability with a limit of One Million Dollars (\$1,000,000.00) each accident, One Million Dollars (\$1,000,000.00) aggregate limit by disease and One Million Dollars (\$1,000,000.00) each employee by disease. Additionally, if there will be operations undertaken on or about navigable waters, a coverage endorsement must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act. If exempt for Worker's Compensation, proper documentation shall be provided.

Exhibit D
Work Authorization

Agreement Title: _____
Agreement Date: _____
Contract Number: _____
Work Authorization No. _____
Consultant: _____

This Work Authorization is between Municipality and Consultant pursuant to the Agreement. Consultant affirms that the representations and warranties in the Agreement are true and correct as of the date this Work Authorization is executed by Consultant. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

The time period for this Work Authorization will be from the date of Municipality's Notice to Proceed until [three hundred and ninety (390)] days after the Notice to Proceed, unless otherwise extended or terminated by the Contract Administrator.

Services to be provided:

The applicable not-to-exceed amount stated in the **Agreement** for the work **at issue** is: \$_____].

The total fee **for** goods and **services under this Work Authorization** is: \$_____ ("**Total** Fee").

The Total Fee shall be invoiced by Consultant upon written acceptance by Municipality of all goods and services provided under this Work Authorization.

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Work Authorization, effective as of the date the last party signs this Work Authorization.

Municipality

Project Manager

Date

Contract Administrator

Date

City Manager or designee

Date

Approved as to form by Municipality's Attorney:

[Insert Name and Title]

Date

Consultant

WITNESSES

Kimley-Horn and Associates, Inc.

Signature

Signed

Date

Print/Type Name

Print/Type Name

Signature

Title

Print/Type Name

ATTEST

Signed

Date

(Print/Type Name of Secretary)

CORPORATE SEAL

Exhibit E
Schedule of Subconsultants

Project No: DEER-005/6
Project Title: Pioneer Grove Infrastructure Improvements – Pedestrian Lighting And Complete Streets Project
Facility Name: Pioneer Grove Infrastructure Improvements – Pedestrian Lighting And Complete Streets Project

No.	Firm Name	Discipline
1.	Stoner Surveyors and Mappers	Surveying
2.	Smith Engineering Consultants, Inc.	Electrical Engineering
3.	Arehna Engineering Inc.	Geotechnical Engineering
4.	Craig A Smith & Associates	Subsurface Utility Locates
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		

EXHIBIT A

SCOPE OF SERVICES

THE PIONEER GROVE INFRASTRUCTURE IMPROVEMENTS – PEDESTRIAN LIGHTING AND COMPLETE STREETS PROJECT (RFQ # 22-05-PC)

Kimley-Horn and Associates, Inc. is pleased to submit Exhibit A to the Agreement between the City of Deerfield Beach (“the Client” or “the City”) and Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) describing professional consulting services for the Pioneer Grove Infrastructure Improvements – Pedestrian Lighting and Complete Streets Project (RFQ # 22-05-PC) (“The Project”). Our project understanding, scope of services, schedule, and fee are below.

Project Understanding

The Project consists of professional survey, geotechnical, conceptual design services, and construction document design services for the development of streetscape improvements within the right-of-way (R/W) of SE 2nd Avenue between NE Eller and SE 10th Street and improvements to the R/W of SE 4th Street between the east R/W of the FEC railroad and SE 2nd Avenue. The Client has indicated that design services for the Project is to be partially funded using \$300,000 in funding provided by the Broward County transportation surtax (“Surtax”) program and that the remaining design will be funded by other Client-identified sources. The following Scope of Services will provide design of the Phase 1 project components, which are eligible for applying Surtax funding. The Phase 2 services will provide for design of the project components that are not Surtax-eligible and will be fully scoped for authorization at a later date.

Phase 1- Surtax Eligible Project Components (this authorization)

- Pedestrian lighting for the full corridor length, considering options for implementation with the FPL Tariff program and a full City-owned lighting system.
- Roadway lighting analysis and upgrade potential for FPL Tariff program replacement and/or re-lamping with LEDs, including additional poles/luminaires/arms if required.
- Streetscape/ roadway improvements:
 - Sidewalk design with Accessibility improvements (no decorative treatment)
 - Bike facilities – on street and/or off-street
 - Roadway configuration with on-street parking, curbing for bulb-outs, signage and marking
 - Surface and subsurface drainage improvements
 - Traffic calming street components, such as traffic circles, speed humps, neck-downs, or other similar solutions applied within the R/W.
 - Bioswale and permeable pavement solutions
 - Crosswalk/intersection improvements (non-decorative)
- Gateway element or sign feature that applies the required Surtax funding logo.

Optional services are proposed for this contract for the following:

- Grant funding assistance
- Peer review of an infrastructure recommendation report prepared by others.

Phase 2- Non-Surtax Eligible Project Components (to be authorized at a later date)

Design services for the following transportation Surtax ineligible items are not included in this scope of services. It is our understanding that services for these ineligible items will be proposed under a separate agreement, to be funded by the City using alternative sources:

- Water/Wastewater utility improvements design
- Design for decorative hardscape treatments – sidewalks/parking lane/crosswalks/etc. (with low maintenance considerations)
- Design/specification for street furnishings - benches, bike racks, locations for public art, etc.
- Design for plantings and tree relocations or other tree permitting efforts
- Design for irrigation system(s)
- Design for decorative signage, gateway features, and/or interpretive signage beyond that which provides identification for the Surtax logo.

It is important to note that the Phase 2 services will be required to complete the project.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

ASSUMPTIONS

This scope of services assumes the following:

- Improvements within FDOT R/W and Florida East Coast Railroad R/W are not anticipated with this project; FDOT and FEC R/W permitting is excluded from this scope of services.
- Design services for portions of the project identified above as Surtax ineligible are excluded from this scope of services. It is understood that those services will be initiated under a separate agreement.
- Signal modifications are not required. Services related to signal modification are excluded from this scope of services
- No cultural resources surveys, historic, or archeological services are assumed to be required for this project. These services are excluded from this scope of services.
- Phase 1 Environmental reporting or similar professional environmental services are assumed to not be required for this project. These services are excluded from this scope of services.
- Lighting design is limited to photometric layout of the pedestrian and vehicular lighting systems we well as design for empty conduits and pull boxes. This scope of services assumes that the Client will contract separately with FPL to furnish and install the lighting system under a tariff program. Electrical engineering services for the lighting system, wiring diagrams, service connection design, and controls is excluded from this scope of services.
- Bid Phase and Construction Phase services are to be proposed under a separate agreement.

TASK 1: PROJECT MANAGEMENT

The Consultant will provide the following project management services related to initiating, planning, executing, controlling, and closing the Project:

- Contract management and sub-contract management
- Accounting and monthly invoicing

- Project schedule management
- Deliverables and submittals coordination
- Client service coordination beyond specific meetings noted in Tasks 2-4

TASK 2.1: SCHEMATIC DESIGN

The Consultant will provide the following schematic design services:

- Consultant will use the project survey and available utility data to prepare a base plan for the Project. One site visit will be required to confirm the survey information and photograph the project limits.
- Consultant will facilitate one kick-off meeting with the Client to present the base map, discuss design parameters, coordinate project expectations, and walk the corridor with the Client. Consultant will prepare the agenda, as needed.
- Consultant will prepare up to three conceptual designs for the corridor, plan view of the project area, identifying proposed curbing and bulb-out locations, potential bioswale integration, initial pedestrian lighting layout, roadway configuration with on-street parking, bike facilities, and sidewalk extents. Concepts will be presented as:
 - Up to three Plan view concepts for each of the following portions of the Project: North of Hillsboro Boulevard, South of Hillsboro Boulevard, SE 4th Street
 - Section drawings, sketches, or vignettes will be prepared in support of the plan views to aid in communicating design intent.
- Consultant will prepare up to three entryway/monument/sign feature concepts, anticipated to be installed within the project limits, and incorporating the Broward Surtax program logo. Concepts will be presented in elevation, with color, keyed to plan location(s).
- Consultant will present the concepts to the Client for selection of a scheme for further development.
- After Client selection of a desired concept (or elements of concepts), Consultant will prepare a rendered concept plan view of the project area, identifying project elements along with illustrative section drawings in support of the design. Submitted materials will be prepared to be compatible with digital presentation methods.
- Upon receiving feedback from Client, one entryway/monument feature concept will be developed further, with refined detail and color elevation exhibits, or as otherwise determined by the Consultant to convey the design intent. Client will make any final comments on the entryway/monument feature concept before incorporation into the construction drawings.
- Consultant will submit the Schematic Design exhibits to Client and attend up to two virtual meetings, if needed, to review.
- Consultant will prepare one revision to refine the Schematic Design package for public meetings and presentation to City Commission.
- Consultant will provide up to three staff for each of two public meetings. Meetings will be hosted in City facilities. Advertisement and notification for public meetings will be performed by Client. Consultant team's role at public meetings will be to aid the Client in the presentation and participate in public input gathering.

- Public meeting findings will be noted at the public meeting and summarized in a memo to the Client.
- Consultant will present the design development package at one Commission meeting.

Deliverables: The following deliverables shall be provided under Task 2:

- Conceptual designs as noted above. Initial concepts will be presented as line drawings with limited color to convey intent.
- Schematic Design package noted above (11" x 17" plan sheets/ exhibits), together with one electronic copy.

Meetings: Kimley-Horn will attend the following meetings under Task 2:

- One kick-off meeting with the City to discuss the project, desired design elements, and to review the project schedule.
- One in-person Concept Review Meeting
- Up to two virtual progress meetings
- Two Public Workshops
- One presentation to City Commission

TASK 2.2: ELECTRICAL SCHEMATIC DESIGN

A subconsultant to Kimley-Horn will provide the following services:

- Perform initial site visit and review project plans.
- Attend project kick-off meeting with Client to determine lighting levels and types of light poles/fixtures desired for the project.
- Prepare lighting justification report including cost figures consistent with Broward County and FDOT policies and criteria outlined in the FDOT Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (Florida Greenbook), current edition.

TASK 3.1: DESIGN DEVELOPMENT (60%)

Kimley-Horn will provide the following Design Development Services:

- The Consultant shall incorporate the review comments from the Schematic Design submission.
- Consultant will perform drainage design to modify the existing drainage system to accommodate the proposed improvements. Drainage design will be limited to minor grading improvements in isolated areas and modifying existing drainage, extending subsurface pipes to accommodate the new street design scenario. It is anticipated that calculations for water quality or treatment quantity will not be required for this project.
- Consultant will prepare the following 60% Design Development drawings:
 - Cover Sheet
 - Project General Notes
 - Typical Sections
 - Demolition Plans
 - Erosion Control Plans and details

- Roadway Plans, with preliminary drainage
 - Roadway Details
 - Bioswale Details
 - Signage and Pavement Marking Plans
 - Specialty signage/ gateway Details
 - Lighting Plans, Details – limited to initial photometric plan and pole layout
- The Consultant will submit 60% plans for Client review. The design drawings shall be submitted in 11" x 17" plan sheets at 1"=40' scale, with electronic copy. The electronic copy shall allow the City to print 24"x36" drawings on 1"= 20" scale. The Client will provide comments to the Consultant within 14 days of receiving the submittal.
 - The Consultant will initiate drainage calculations for spread analysis, water quality, and discharge to aid the Consultant in drainage design.
 - The CONSULTANT will attend one coordination meeting with the CITY to address review comments. The intent of this meeting is for the Client to invite departmental staff for input.
 - The CONSULTANT will provide an updated schedule as part of this submittal package for City review and approval.
 - The CONSULTANT will prepare an opinion of probable construction cost for the 60% design.

The Consultant has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided herein are based on the information known to Consultant at this time and represent only the Consultant's judgment as a design professional familiar with the construction industry. The Consultant cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from its opinions of probable costs.

Deliverables: The following deliverables will be provided under Task 3:

- Three original sets of the 60% design package (11" x 17" plan sheets), together with one electronic copy. Electronic copy will allow the Client to print 24"x36" drawings on 1"=20" scale.
- One copy of updated project schedule.
- One copy of the 60% opinion of probable construction cost.

Meetings: Kimley-Horn will attend the following meetings under Task 3:

- Kimley-Horn will attend up to four progress meetings to discuss the specific aspects of the corridor that need to be addressed during design, and to discuss progress with the Client. Coordination between face-to-face meetings will be facilitated through phone conversations and emails.

TASK 3.2: ELECTRICAL DESIGN DEVELOPMENT

A subconsultant to Kimley-Horn will provide the following services:

- Prepare a lighting design analysis report consistent with Broward County and FDOT policies and criteria outlined in the current edition of the Florida Greenbook for the roadway lighting.
- Prepare illumination calculations (photometrics) to indicate design illumination levels for installation of FPL LED lighting within the project limits. The lighting design will be based on the use of FPL light poles and luminaires provided and installed by FPL under a tariff program.

Therefore, the scope of services for lighting design is limited to performing photometric calculations to provide the proposed locations for FPL's light poles along with a conduit and pull box layout. Illumination levels will be designed per Table 6-1 Level of Illumination for Streets and Highways from the Florida Greenbook, current edition.

- Coordination with FPL representatives, as necessary, throughout the project.

TASK 4.1: CONSTRUCTION DOCUMENTS

The Consultant will provide the following services for Task 4:

Permitting and Permit Drawings

- The Consultant will incorporate 60% review comments and develop the plans towards the 100% phase enough to submit for permits. Once permit review comments are received, Consultant will review with Client and address comments to resubmit to permit agencies. At this stage it is not anticipated that the City will have any major comments, which would affect the permitting process. Any minor review comments by the City will be incorporated prior to resubmission to permit agencies.
- Consultant will prepare the following permit drawings:
 - Cover Sheet
 - Project General Notes
 - Typical Sections
 - Demolition Plans
 - Erosion Control Plans and details
 - Roadway Plans, with drainage design
 - Roadway Details and drainage details
 - Bioswale Details
 - Signage and Pavement Marking Plans
 - Specialty signage/ gateway Details
 - Lighting Plans, Details – limited to initial photometric plan and pole layout
- The Consultant will make application for permits to City of Deerfield Beach, Broward County Surface Water Management, Broward County Traffic Engineering, and Broward County Highway Construction and Engineering Division.
- The Consultant will prepare a drainage report consisting of drainage calculations for spread analysis, water quality, and discharge. The report to be submitted to Broward County Environmental Engineering and Permitting Division.
- The Consultant will attend permit meetings with permitting agencies in advance of making permit applications and to resolve permitting comments. Up to two meetings per permit are anticipated. The Consultant will prepare meeting summaries and provide documentation to the Client.
- The Consultant will respond with written responses and plan revisions up to two times per each permit.
- Client will directly pay for all permit fees for required permits.

- The permit drawings will be submitted in 11" x 17" plan sheets at 1"=40' scale, with electronic copy. The electronic copy shall allow the City to print 24"x36" drawings on 1"= 20" scale.
- The Consultant will prepare an opinion of probable construction cost for the Permit drawing package.

100% Construction Documents

- The Consultant will incorporate the review comments from permitting phase in the 100% Construction Documents submittal.
- The Consultant will submit the 100% design submission to the Client. The design drawings will be submitted as 24" x 36" plan sheets.
- The Consultant will prepare a construction cost estimate and make the changes to the design if needed to have it within the proposed budget.
- Once all final minor comments are addressed, or if no comments or corrections are necessary, the Consultant will submit the Final Plans and Specifications, and any other document required for a complete design to the Client for bidding. Consultant will provide three (3) original signed and sealed sets of the Final Design Package (24" x 36" plan sheets), together with an electronic copy.
- The Consultant will prepare an opinion of probable construction cost for the Permit drawing package.

Deliverables: The following deliverables will be provided under Task 4:

- Three signed and sealed prints of the Final Plans and Specifications 100% design package (1" =20' scale 24" x 36" plan sheets), together with one (1) electronic copy, including updated rendering of the plan view and planting/hardscape exhibits. Submitted materials will be prepared to be compatible with digital presentation methods.
- Draft technical specifications and draft bid form
- One copy of the opinion of probable construction cost

Meetings: Kimley-Horn will attend the following meetings under Task 4:

- Kimley-Horn will attend up to four progress meetings to discuss the specific aspects of the corridor that need to be addressed during design, and to discuss progress with the Client. Coordination between face-to-face meetings will be facilitated through phone conversations and emails.

TASK 4.2: ELECTRICAL CONSTRUCTION DOCUMENTS

A subconsultant to Kimley-Horn will provide the following services:

- Revise the plans according to the 60% review comments and submit 90% plans.
- Revise the plans according to the 90% review comments and submit 100% plans.

TASK 5: SPOT UTILITY VERIFICATION, GEOTECHNICAL, AND SURVEY SERVICES

Task 5.1 Spot Utility Verification - Sub-Consultant Craig A Smith & Associates (CAS)

A sub-consultant to Kimley-Horn will perform the following utility location services:

- Provide utility location and verification services within the corridor discussed in the preamble above using APWA standards for marking. A subsurface ground penetrating radar (GPR) unit shall be used in addition to electromagnetic induction (EM) to perform/verify horizontal locations of existing utility lines. Utility lines will be painted on the surface or marked with pin flags. Survey will physically locate all above ground, visible utilities and show together with utilities as marked on the surface by the Craig A. Smith & Associates Locating Department. Drainage structure information, IE inverts, pipe materials and or pipe sizes will not be included. All information will be shown relative to the Florida State Plane Coordinate Grid System, East Zone, North American Datum of 1983 (NAD '83) with the 2011 adjustment, horizontally and the North American Vertical Datum of 1988 (NAVD '88) vertically. A base map will be created in current software parameters and provided to the Client as well as a Certified Map of Specific Purpose Survey adhering to the Standards of Practice for surveying in the State of Florida, (chapter 5j – 17) of the Florida administrative code, for submittal to entities of interest.
- Utility test holes (soft digs) will be performed, and reports provided for each with utility depth, elevation, size, material and type. CAS survey will locate each test hole and show on the base map created per 1.1.1. The test holes will be performed based on the direction of the project engineer and limited to Sixty-five (30) test holes per this request. Please note that this fee does not include fees for MOT or other requirements, if any. a minimum of five (5) test holes must be ordered at one time

Task 5.2 Geotechnical Services – Sub-Consultant AREHNA Engineering, Inc.

A sub-consultant to Kimley-Horn will perform the following geotechnical services:

- Obtain any permits needed to perform the requested services within the existing roadway right of way.
- Assumes the subsurface investigation will be performed within Broward County and City of Deerfield Beach Right-of-Way and time for Off-duty police officers, if needed, is not included.
- Perform 12 Standard Penetration Test (SPT) borings to a depth of 6 feet along the project alignment. Samples will be collected, and Standard Penetration Test resistances will be measured continuously for the top ten feet and at approximate intervals of five feet thereafter. The SPT borings will be backfilled with grout and the roadway will be patched with cold patch asphalt.
- Perform up to four borehole permeability tests at locations to be identified by the project engineer, assumed to be within existing swale areas.
- Perform two pavement cores. A SPT boring extending to depths of approximately 2 feet will be performed at each core location. The SPT borings will be backfilled with soil cutting and the roadway will be patched with cold patch asphalt.

- Perform five SFWMD Usual Condition, Constant Head percolation/exfiltration tests to a depth of 15 feet below existing ground surface. A SPT boring extending to depths of approximately 20 feet will be performed at each percolation test location.
- Perform corrosion series testing for up to three soil samples.
- Collect two bulk samples for Limerock Bearing Ratio (LBR Testing).
- Visually classify and stratify soil samples in the laboratory using the Unified Soil Classification System and conduct a laboratory testing program.
- Report the results of the field exploration and engineering analysis. The results of the subsurface exploration will be presented in a written report signed and sealed by a professional engineer specializing in geotechnical engineering
- This scope of services assumes five days of MOT will be required.
- Sub-consultant will acquire required permits from City of Deerfield Beach. This scope assumes no geotechnical services within FDOT or FEC Rights of Way.

Task 5.3 Survey Services – Sub-Consultant Stoner & Associates, Inc.

A subconsultant to Kimley-Horn will provide the following professional survey services within the project limits described in the Project Understanding:

- Prepare a topographic survey within the project limits and will extend to the building facades where the buildings are within 15' of the R/W, otherwise the survey will extend to the roads and railroad right of way lines.
- The survey of the intersection of SE 2nd Avenue and Hillsboro Boulevard will be limited, depending of traffic.
- Easements and dedications will be based on the plats of record, or a client supplied title report.
- Establish horizontal and vertical control points to support the survey efforts.
- Obtain an elevation shot at door thresholds for those buildings located within 15' of the right of way.
- Vertical control (elevations) will be based on North American Vertical Datum of 1988 (NAVD).
- Horizontal control will be based on the Florida State Plane Coordinates System, East Zone, North American Datum of 83/90.
- Establish a baseline of survey at the center of the calculated center of right of way, monument the beginning, end, points of intersection of tangents and every 1,000 in tangent lines.
- Obtain elevations at edge of pavement, top of curb, back of sidewalk at 50' intervals and any additional low and high point elevations that may exist between the intervals and at transitions such as driveways, private walkways, ramps, etc.
- Locate surface features within the survey limits as follows: buildings, pavement, driveways, paved swales, sidewalks, private walkways, slabs, curbs, walls, fences, signage.
- Locate visible surface evidence of utilities as follows: utility poles, guy wires, street lighting, storm sewer structures, sanitary sewer structures, wire pull boxes, cable enclosures, utility cabinets, valves, valve boxes, meter boxes, backflow preventers, fire hydrants, and overhead utilities.
- Subconsultant will survey (field locate) utility designations that are visible or marked out in the field (by others) and plot them on the survey drawing.
- Locate wetland flags with elevations delineating wetland boundaries, if any.

- Measure the rim and invert elevation of sanitary and storm sewer structures that are accessible.
- Determine pipe types, size, and flow direction, when possible. Structures located within active roadways will be as-built at the field crew's discretion, based on safety considerations.
- Locate pavement striping and parking spaces with type.
- Right of Way research is limited to what is shown on plats of records and also any Right of Way information included in the parcel Information as per Broward County Property Appraiser's office website.
- Reduce, check, and plot survey data at appropriate scale.
- Locate trees three caliper inches in diameter or larger.
- Tree species will be identified by common species name.
- Trees that cannot be identified by name will be listed as unknown species.
- The diameter of each tree trunk will be measured at breast height (DBH). Multiple-trunk trees will reflect the sum of all the trunks at DBH.
- A tree legend will be affixed to the survey drawing and will list each tree species by common name, survey point number, and trunk diameter.

Survey deliverables:

- PDF and CAD of Survey file.
- Signed/sealed copies of the survey may be provided at \$5.00 per sheet, expensed to the Client per the terms of the Agreement.

Additional Services

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates or for a pre-negotiated fee. Additional services we can provide include, but are not limited to, the following:

- Overhead to underground utility conversion design and coordination
- Meetings and coordination beyond that specifically outlined above
- Major redesign effort due to changes in the overall project scope, budget, or programming after the preliminary engineering phase.
- Environmental Engineering Services and Field Investigations
- Collection of traffic counts or professional traffic analysis services
- Preparing additional responses to agency comments
- Traffic Studies or traffic engineering services not specifically noted above
- Permit expediting services
- Dewatering permitting
- Construction Phase Services and Bid Assistance
- Landscape architectural services for planting design
- Irrigation design Services
- Tree Disposition plans, relocation details, tree protection detailing
- Decorative hardscape treatment, such as pavement treatments, site furnishings
- Design for gateway features, signage, wayfinding, etc not described in the Scope of Services.
- Utility design services
- Hydraulic modeling of utility system/ stormwater system

- Utility relocation design and permitting not specifically mentioned in the Scope of Services
- Services not specifically mentioned in the Scope of Services
- Right-of-way acquisition support
- 3-D Renderings

OPTIONAL SERVICES

Upon authorization by the Client, per the terms of the Agreement, the Consultant can provide the Optional Services described below. Up to \$20,000 in hourly Grant Writing Assistance services will be performed under this Optional Services task. Depending on the grant type(s) applied for, additional time and effort beyond the maximum amounts described under this Optional Services task may be required, to be authorized by the Client under a separate agreement.

OPT1: Grant Writing Assistance Services \$20,000 MAX (Hourly)

OPT1.1 - Identify Funding Opportunities: Consultant will schedule a meeting with the City to determine project funding priorities and associated timelines. With this information, Consultant will conduct a grant and loan funding search of Federal, State, Municipal, or other non-governmental sources that suit the City's profile. Consultant will prepare a memorandum presenting our findings, associated specifics, deadlines, and suggested actions.

Once an actionable opportunity is identified, Consultant will assemble a technical writing and grant and/or loan preparation team tasked to conduct a specific review the grant and/or loan requirements, including timeframe for submittal.

OPT1.2 - Project Coordination: Consultant will assist the City in the scheduling of meetings, the development of timetables, proposal language and the development of the grant and/or loan application. We will prepare for and facilitate a kick-off meeting with City Staff to review application requirements and details. The following are expected to be covered during project coordination meetings:

- Consultant will provide the City with a list of necessary materials that may be in the possession of the City or another City consultant. Consultant will review with the City the timeliness of the receipt of materials requested. It is understood that if materials are required, and not provided by the City in a timely manner, the Consultant may not be able to prepare and submit the grant to the relevant agency, or organization.
- Consultant will review the application timelines which may include, but not limited to, question and answer periods, application submittal deadline, application review and evaluation period, award date, and project completion date.
- Consultant and City will identify mutually beneficial partnerships that may supplement the application, as applicable. This supplemental information has typically consisted of letters of support from other stakeholders such as adjacent municipalities, not-for profits, community organizations, hospitals, economic development organizations, elected officials and Congressional Delegates.

OPT1.3: Preparation and Writing of Tailored Applications: Consultant may perform the following services under this task:

- Provide consultation, planning, and strategizing with City throughout the process.
- Understand the compliance guidelines provided for the grant and/or loan applications and advise the City of such requirements.
- Prepare and ask questions for clarity during available question and answer periods.
- Develop timelines and the strategy to ensure timely submission of the application.
- Develop a budget level opinion of project costs as requested by the application
- Structure workflow and execute plan for the grant and/or loan applications application.
- Collaborate with appropriate stakeholders to obtain signatures, data, forms, etc.
- Locate, identify, research, collect, and analyze data as set forth in the grant and/or loan application guidelines.
- Provide research assistance, if necessary.
- Develop language for both the grant and/or loan application narratives and data including, if necessary, charts, tables, and diagrams to illustrate data.
- Prepare supplemental documents required for grant and/or loan application completion.
- Prepare grant and/or loan application with required documents.

OPT1.4: Grant Application Submittal, Evaluation, and Monitoring: Consultant will collaborate with the City for submittal the grant and/or loan application to the agency and/or organization in the method required under the grant and/or loan. Consultant will monitor the evaluation process of the agency or organization and apprise the City of status of award notifications.

Consultant will review the draft application with City and make one round of revisions prior to submitting the grant application.

OPT2: Professional Peer Review Services (\$26,160 – Lump Sum)

In 2017, Stantec prepared the *Pioneer Grove Infrastructure Study, Local Activity Center (LAC) Area Improvements*. The evaluation was intended to review the existing infrastructure within the project corridor relevant to future redevelopment. The effort included a review of stormwater facilities, water and wastewater infrastructure, overhead electric, cable and phone lines. The report concluded that the existing infrastructure, primarily water, sewer, and stormwater/drainage, was not sufficient for future redevelopment, and included a series of recommendations. The recommended improvements to the stormwater system totaled \$1,873,428 (in 2017 dollars), and to the water system totaled \$1,240,660. This Task will include a review of the Stantec report, and a peer review of the specific recommendations to determine if the proposed upsizing/abandonment/replacements/expansions of the systems are relevant to the current project scope. No utility design or modeling efforts are included (Phase 2). This task will include two meetings with City staff (including planning, engineering and utilities representatives) to discuss available data, objectives, preferred solutions and current demands/conditions. The City will provide the necessary infrastructure design files in GIS or CAD format, as well as any applicable modeling files, for evaluation. The consultant will prepare a conceptual

listing of improvements believed necessary to support the current project scope. The draft list will be provided to the City as a technical memorandum to facilitate discussion in a virtual meeting prior to finalizing. This memorandum will serve as the basis of the utility design services task in Phase 2, to be authorized at a later date.

Schedule

We will provide the above-described services outlined in an expeditious and orderly manner to meet the schedule mutually agreed to by the City and Kimley-Horn for the various elements of the project. Estimated milestone deadlines for surtax funding requirements are generally outlined as follows:

No.	Service Area Name	Deadline
1	Notice to Proceed and Commencement of Work	14 day after contract award
2	Basis of Design Report; (Inspection, Survey, Environmental Assessment)	60 days after NTP
3	30% Design Submittal	90 days after acceptance of Basis of Design Report, etc.
4	60% Design Submittal	90 days after acceptance of 30% Design Submittal
5	90% Design Submittal	90 days after acceptance of 60% Design Submittal
6	Final Plans, Specifications Package and Final Cost Estimate Submittal Permitting completed	60 days after acceptance of 90% Submittal

(remainder of page intentionally left blank)

Fee and Billing

Kimley-Horn will perform the services described in Tasks 1 through 5 for the **maximum fee of \$586,265**. All permitting, application, and similar project fees will be paid directly by the Client.

Task No.	Task Description	Fee (\$)	Fee Structure
Task 1	Project Management	\$ 44,400	Lump Sum
Task 2.1	Schematic Design	\$ 69,690	Lump Sum
Task 2.2	Electrical Schematic Design (CBE Sub)	\$ 10,000	Lump Sum
Task 3.1	Design Development	\$ 126,275	Lump Sum
Task 3.2	Electrical Design Development (CBE Sub)	\$ 12,000	Lump Sum
Task 4.1	Construction Documents	\$ 166,435	Lump Sum
Task 4.2	Electrical Construction Documents (CBE Sub)	\$ 12,000	Lump Sum
Task 5.1	Spot Utility Verification (non-CBE Sub)	\$ 51,880	Lump Sum
Task 5.2	Geotechnical (CBE Sub)	\$ 30,635	Lump Sum
Task 5.3	Survey Services (CBE Sub)	\$ 57,950	Lump Sum
Expenses	Reimbursable Expenses	\$ 5,000 (MAX)	Per Agreement
	GRAND TOTAL	\$ 586,265	

Optional Services 1	Grant Writing Services	\$ 20,000	Hourly/Max
Optional Services 2	Professional Peer Review Services	\$ 26,160	Lump Sum

Via email: Asoroka@wsh-law.com
and Pcygielnik@deerfield-beach.con

February 3, 2022

Anthony C. Soroka, City Attorney and
Priscilla Cygielnik, P.E., Director of Environmental Services
City of Deerfield Beach
150 NE 2nd Avenue
Deerfield Beach, FL 33441

RE: Broward County's Approval of Proposed Contract Pursuant to Sections 3.3 and 3.5.2 of the
Interlocal Agreement between Broward County and the City of Deerfield Beach for Surtax-
Funded Municipal Transportation Project: DEER-005/006 ("Agreement")

Dear Mr. Soroka and Ms. Cygielnik:

On January 31, 2022, we received the City of Deerfield Beach's ("City") Notice of Proposed Award and Proposed Consulting Agreement with Kimley-Horne and Associates, Inc. ("Consulting Agreement"). Pursuant to sections 3.3 and 3.5.2 of the Agreement, this letter confirms Broward County's approval of and concurrence with the proposed award of the Consulting Agreement. Please note that no subsequent material changes to the proposed Consulting Agreement may be made without prior written approval from the Office of the County Attorney.

Pursuant to section 3.5.2 of the Agreement, the City agrees and acknowledges that Broward County's approval or disapproval of the proposed agreement does not constitute a legal opinion, including without limitation as to the legal sufficiency of the Consulting Agreement, for use or reliance by the City or any third party and shall not be the basis for any claim or liability against Broward County or asserted to avoid any reimbursement or other obligation of the City under the Agreement.

Should you have any questions, please feel free to contact me.

Sincerely,



Angela Wallace

Transportation Surtax General Counsel



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1064

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving an agreement with Kimley-Horn and Associates, Inc. for the Design of the FAU Research Park Blvd. (SW 11th Way) Improvements Project; authorizing the City Manager to execute the Agreement with Kimley-Horn and Associates, Inc., in an amount of \$933,968.40; and providing for an effective date. (*Funds from Account #108-5050-541-60-31 - Improvements Other than Buildings*)

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs:\$933,968.40

Account Name:Improvements Other than Buildings

Account Number:108-5050-541-60-31

Background/History

On August 17, 2021, the City Commission approved the Interlocal Agreement with Broward County for the Surtax Funded Municipal Transportation Project: FAU Research Blvd (SW 11th Way) Roadway Improvement - DEER-007 (the "Project ILA"). On January 4, 2022, the City Commission approved the ranking for Request for Qualifications #22-04-PC and authorized the City Manager to negotiate an agreement with Kimley-Horn and Associates, Inc. ("Kimley-Horn").

The City received the attached scope of work from Kimley-Horn (the "Proposal"), which consists of professional survey, geotechnical, conceptual design services, and construction document design services (the "Services") for the conversion of an existing two-lane undivided roadway to a four-lane divided roadway with a raised median and complete-street improvements along FAU Research Park Boulevard from SW 48th Street to SW 10th Street in Deerfield Beach (the "Project"). It is anticipated that existing right/left turn lanes providing access to properties along the project limits will be maintained and will be replaced in kind. The Proposal is for an amount of \$933,968.40 for the Surtax eligible items, and provides for additional services that may be requested by the City at a later date.

The Project is to be partially funded using \$480,000 in funding provided by the Broward County transportation surtax ("Surtax") program and the remaining design will be funded by an available Road and Bridge Fund balance. The following Scope of Services will provide a design for eligible Surtax funding and will generally cover improvements that are not categorized as beautification or aesthetic improvements:

- Street lighting improvements illuminating right of way for vehicles, pedestrians, and bicyclists.
- Drainage improvements addressing storm water runoff from public roadways.
- Landscaping improvements that meet applicable design criteria are considered for funding.
- Roadway improvements include widening from two lanes to four lanes with a raised median, buffered bicycle lane and sidewalks (minimum 5-feet wide).
- Signing and pavement marking that meet the applicable design criteria considered for funding, including high visibility crosswalk markings.
- ADA accommodations.
- Intersection evaluation and design at SW 15th Street and FAU Research Boulevard.
- Gateway element or sign feature that applies the Surtax funding logo (required).

Current Activity

In accordance with the Project schedule, as provided in the Project ILA, upon execution of this agreement with Kimley-Horn, the City will issue a notice to proceed for commencement of the work. Kimley-Horn will have 60 days to complete the initial conceptual design services and 90 days thereafter for each phase of design submittals with anticipated plan completion and permit approvals by January 2023. Construction of the Project will be funded in the Surtax Program five-year plan beginning in FY23 to receive construction funding in the amount not to exceed \$3,520,000.

Optional design phase services for design of the project components that are not Surtax-eligible may be fully scoped for authorization at a later date to potentially include the following:

- Pedestrian decorative lighting.
- Decorative road signage including corridor entry sign.
- Architectural or brick pavers.
- Utility system improvements.
- Drainage improvements to address runoff from private roads and/or developments.
- Right-of-Way acquisition support.

Recommendation

It is recommended the City Commission of the City of Deerfield Beach approve an Interlocal Agreement between Broward County and the City of Deerfield Beach for the Surtax-Funded Municipal Transportation Project: FAU Research Blvd (SW 11th Way) Roadway Improvement - DEER-007.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING AN AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC. FOR THE DESIGN OF THE FAU RESEARCH PARK BLVD. (SW 11TH WAY) IMPROVEMENTS PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT WITH KIMLEY-HORN AND ASSOCIATES, INC., IN AN AMOUNT OF \$933,968.40; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Deerfield Beach (the “City”) issued Request for Qualifications #22-04-PC (the “RFQ”) for the FAU Research Park Blvd. (SW 11th Way) Improvements Project (the “Project”); and

WHEREAS, following the oral presentations/interviews, the evaluation committee submitted their final rankings (the “Ranking”), with Kimley-Horn and Associates, Inc. (“Kimley-Horn”) as the top ranked, responsive and responsible proposer; and

WHEREAS, on January 4, 2022, the City Commission approved the Ranking, awarded the RFQ to Kimley-Horn, and authorized the City Manager to negotiate an agreement with Kimley-Horn; and

WHEREAS, Kimley-Horn has provided the City with a proposal for the design of the Project (the “Proposal”), which consists of professional survey, geotechnical, conceptual design services, and construction document design services (collectively, the “Services”), in an amount of \$993,968.40; and

WHEREAS, the Proposal also provides for additional optional design phase services, which may be negotiated and authorized by the City at a later date; and

WHEREAS, the City Commission finds it in the best interest of the City to approve the agreement with Kimley-Horn, attached as Exhibit “A,” for the Services for the Project (the “Agreement”).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the Agreement with Kimley-Horn, attached as Exhibit “A,” for the Services for the Project in an amount of \$933,968.40.

Section 3. The City Manager is hereby authorized to execute the Agreement with Kimley-Horn, attached as Exhibit “A,” together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to take all necessary steps to implement the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

**AGREEMENT BETWEEN CITY OF DEERFIELD BEACH
AND KIMLEY-HORN AND ASSOCIATES, INC. FOR CONSULTANT SERVICES FOR
FAU RESEARCH PARK BLVD. (SW 11TH WAY) IMPROVEMENTS PROJECT
(RFQ # 22-04-PC)**

This Agreement ("Agreement") is made and entered by and between City of Deerfield Beach, Florida, a political subdivision of the State of Florida ("Municipality"), and Kimley-Horn and Associates, Inc., a foreign corporation ("Consultant") (each a "Party" and collectively referred to as the "Parties").

RECITALS

A. Municipality has met the requirements of Section 287.055, Florida Statutes, the Consultants' Competitive Negotiation Act, and has selected Consultant to perform the services hereunder.

B. Municipality issued Request for Qualifications #22-04-PC (the "RFQ") for the FAU Research Park Blvd. (SW 11th Way) Improvements Project (the "Project").

C. On January 4, 2022, the City Commission approved the ranking of the RFQ and authorized the City Manager to negotiate an agreement with the Consultant.

D. On February 1, 2022, the City Commission approved the award of this Agreement to the Consultant.

Now, therefore, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

1.1 **Applicable Law** means all applicable laws, codes, advisory circulars, rules, regulations, or ordinances of any federal, state, county, municipal, or other governmental entity, as may be amended.

1.2 **Commission** means the governing body of Municipality, its successors and assigns.

1.3 **Contract Administrator** means the Director of Environmental Services, or such other person designated by Director of Environmental Services in writing. The Contract Administrator is the representative of Municipality concerning the Project.

1.4 **Contractor** means the person, firm, corporation, or other entity who enters into an agreement with Municipality to perform the construction work for the Project.

1.5 **County** means Broward County, a political subdivision of the State of Florida and representatives authorized by the Board of County Commissioners or the Broward County Charter to act on behalf of County.

1.6 **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.7 **Notice to Proceed** means a written authorization to proceed with the Project, phase, or task, issued by the Contract Administrator.

1.8 **Project** means the project described in Exhibit A.

1.9 **Purchasing Director** means Municipality's Purchasing Manager or designee authorized to execute Work Authorization provided for in Section 6.3.

1.10 **Services** means the work set forth in Exhibit A, Scope of Services, and shall include civil, structural, mechanical, and electrical engineering, architectural services, and other professional design services as applicable for the Project, and any Optional Services procured under this Agreement.

1.11 **Small Business Enterprise** or **SBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.12 **Subconsultant** means an entity or individual providing services to Municipality through Consultant for all or any portion of the work under this Agreement. The term "Subconsultant" shall include all subcontractors.

ARTICLE 2. EXHIBITS

Exhibit A	Scope of Services
Exhibit B	Maximum Billing Rates
Exhibit C	Minimum Insurance Requirements
Exhibit D	Work Authorization Form
Exhibit E	Schedule of Subconsultants

ARTICLE 3. SCOPE OF SERVICES

3.1 Consultant shall provide all Services as set forth in Exhibit A, including all necessary, incidental, and related activities required for full and complete performance of this Agreement (the "Scope of Services").

3.2 This Agreement does not delineate every detail and minor work task required to be performed by Consultant to complete the Project. If Consultant determines that work should be performed to complete the Project and, in Consultant's opinion, that work is outside the level of

effort originally anticipated, whether or not the Scope of Services identifies the work items, Consultant shall notify the Contract Administrator in writing in a timely manner before proceeding with the work. If Consultant proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to the Contract Administrator does not constitute authorization or approval by Municipality to Consultant to perform the work. Any such work that would entail additional compensation to Consultant by Municipality, or additional time for performance, shall require an amendment to this Agreement pursuant to Section 6.1 or a Work Authorization pursuant to Section 6.2. Unless there is an executed amendment or Work Authorization or a dispute as set forth in Section 6.4, any work performed by Consultant outside the originally anticipated level of effort without prior written Municipality approval shall be at no additional cost to Municipality.

3.3 Exhibit A identifies the initial services related to the Project, and additional negotiations may be required for other phases or additional services. Municipality and Consultant may negotiate additional services, compensation, time of performance, and other related matters, including for other phases of the Project. Notwithstanding the foregoing, Municipality shall have the right to terminate negotiations at any time at no cost to Municipality and procure services for other Project phases from any other source.

3.4 Municipality shall assist Consultant by placing at Consultant's disposal all information Municipality has available pertinent to the Project, including previous reports and any other data relative to the Project. Municipality shall arrange for access to, and make all provisions for, Consultant to enter upon public and private property as required for Consultant to perform its Services. Municipality shall review any itemized deliverables and documents required to be submitted by Consultant and respond in writing with any comments within the time set forth in Exhibit A. Municipality shall give prompt written notice to Consultant whenever Municipality observes or otherwise becomes aware of any material defect in the work of Contractor or Subconsultants, or other material development that affects the scope or timing of Consultant's Services.

ARTICLE 4. TIME FOR PERFORMANCE; DAMAGES

4.1 Consultant shall perform the Services within the time periods specified in Exhibit A. Time periods shall commence from the date of the applicable Notice to Proceed.

4.2 Consultant must receive a Notice to Proceed from the Contract Administrator prior to commencement of Services and any phase of Services under this Agreement. Prior to granting approval for Consultant to proceed to any phase, the Contract Administrator may, at the Contract Administrator's sole option, require Consultant to submit the itemized deliverables and documents identified in Exhibit A for the Contract Administrator's review.

4.3 If the Contract Administrator determines that Consultant is unable to timely complete all or any portion of the Services because of delays resulting from untimely review by Municipality

or other governmental agencies having jurisdiction over the Project and such delays are not the fault of Consultant, or because of delays caused by factors outside the control of Consultant, Municipality shall grant a reasonable extension of time for completion of the Services. It shall be the responsibility of Consultant to notify the Contract Administrator in writing whenever a delay in approval by a governmental agency is anticipated or experienced, and whenever a delay has been caused by factors outside of Consultant's control, and to inform the Contract Administrator of all facts and details related to the delay. Consultant must provide such written notice to the Contract Administrator within three (3) business days after the occurrence of the event causing the delay.

4.4 If (a) Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, or (b) if Contractor is granted an extension of time beyond said substantial completion date and Consultant's Services are extended beyond the substantial completion date through no fault of Consultant, then Consultant shall be compensated in accordance with Article 5 for all Services rendered by Consultant beyond the substantial completion date.

4.5 Notwithstanding Section 4.4, if Contractor fails to substantially complete the Project on or before the substantial completion date specified in its agreement with Municipality, and the failure to substantially complete is caused in whole or in part by Consultant, then Consultant shall pay to Municipality its proportional share of any claim for damages to Contractor arising out of the delay. The provisions for the computation of delay costs, damages, or any other amounts, whether direct or indirect, in the agreement between the Contractor and Municipality are incorporated herein. This section shall not affect the indemnification rights or obligations of either Party otherwise set forth in this Agreement.

ARTICLE 5. COMPENSATION AND METHOD OF PAYMENT

5.1 Amount and Method of Compensation. The amounts set forth in this Article 5 are the total compensation payable to Consultant and constitute a limitation upon Municipality's obligation to compensate Consultant for Services under this Agreement, but do not constitute a limitation of any sort upon Consultant's obligation to perform all Services required under this Agreement.

5.1.1 Maximum Amount Not-To-Exceed Compensation. For Basic Services identified in Exhibit A as payable on a "Maximum Amount Not-To-Exceed" basis, compensation to Consultant shall be based upon the Salary Costs as described in Section 5.2 up to a maximum not-to-exceed amount of \$ 933,968.40.

5.1.2 Lump Sum Compensation. For Basic Services identified in Exhibit A as payable on a "Lump Sum" basis, compensation to Consultant shall be not more than a total lump sum of \$N/A.

5.1.3 Optional Services. Municipality may procure Optional Services at an amount to

be negotiated at a later date pursuant to Article 6. Unused amounts of these Optional Services monies shall be retained by Municipality.

5.1.4 Reimbursable Expenses. Municipality will reimburse Municipality-authorized Reimbursable Expenses as defined in Section 5.3 up to a maximum not-to-exceed amount of \$5,000.00. Unused amounts of those monies shall be retained by Municipality.

5.1.5 Salary Costs. The maximum billing rates ("Maximum Billing Rates") payable by Municipality for each of Consultant's employee categories are shown on Exhibit B and are further described in Section 5.2.

5.1.6 Subconsultant Fees. Consultant shall bill Municipality for Subconsultant fees using the employee categories for Salary Costs on Exhibit B as defined in Section 5.2 and Reimbursable Expenses defined in Section 5.3. Consultant shall bill Subconsultant fees with no mark-up and within any applicable maximum not to exceed amount.

5.1.7 Phased Amounts. Payments for Basic Services shall be paid out pursuant to the Project phasing specified in Exhibit A and shall not exceed the amount set forth below for the applicable phase. The invoiced fee amount for each phase shall be subject to retainage as set forth in Section 5.5.

Project Phase	Fee %	Phase Amount
TASK 1: Project Management	8%	\$74,300
TASK 2: Schematic Design	31%	\$287,410
TASK 3: Design Development	50 %	\$473,338.40
TASK 4: Final Contract Documents	10 %	\$93,920
Reimbursable Expense	1%	\$5000
Total Basic Services Fee	100%	\$933968.40

5.2 Salary Costs. The term "Salary Costs" as used herein shall mean the hourly rate actually paid to all personnel engaged directly on the Project, as adjusted by an overall multiplier that consists of the following: 1) a fringe benefits factor; 2) an overhead factor; and 3) an operating margin. Said Salary Costs are to be used only for time directly attributable to the Project. The fringe benefit and overhead rates shall be Consultant's most recent and actual rates determined in accordance with Federal Acquisition Regulation ("FAR") guidelines and audited by an independent Certified Public Accountant. For the purposes of this Agreement, the rates must be audited for fiscal periods of Consultant within eighteen (18) months preceding the execution date of this Agreement. These rates shall remain in effect for the term of this Agreement except as provided for in the Agreement.

5.2.1 Consultant shall require all of its Subconsultants to comply with the requirements of Section 5.2.

5.2.2 Salary Costs for Consultant and Subconsultants as shown in Exhibit B are the Maximum Billing Rates, which are provisional, subject to audit of actual costs, and if the audit discloses that the actual costs are less than the costs set forth on Exhibit B for Consultant or any Subconsultant, Consultant shall reimburse Municipality based upon the actual costs determined by the audit. Municipality may withhold the amount Consultant is required to reimburse Municipality from any payment due Consultant.

5.2.3 Unless otherwise noted, the Salary Costs stated above are based upon Consultant's "home office" rates. Should it become appropriate during the course of this Agreement that a "field office" rate be applied, then it is incumbent upon Consultant to submit a supplemental Exhibit B reflective of such rates for approval by Contract Administrator and, upon such Municipality's approval, invoice Municipality accordingly.

5.2.4 The total hours payable by Municipality for any "exempt" or "nonexempt" personnel shall not exceed forty (40) hours per employee in any week. If the work requires Consultant's or Subconsultant's personnel to work in excess of forty (40) hours per week, any additional hours must be authorized in advance, in writing, by the Contract Administrator. If approved, Salary Costs for additional hours of service provided by nonexempt (hourly) employees or exempt (salaried) employees shall be invoiced at no more than one and one-half of the employee's hourly rate and in a manner consistent with Consultant's or Subconsultant's applicable certified FAR audit and all other provisions of Section 5.2. If a "Safe Harbor" rate is elected for use by Consultant or Subconsultant, then the additional hours are payable at no more than the employee's regular rate.

5.2.5 Consultant and any of its Subconsultants may alternatively use a "Safe Harbor" combined fringe benefit and overhead rate of 110% in lieu of providing fringe benefit and overhead cost factors certified by an independent Certified Public Accountant in accordance with the FAR guidelines. The Safe Harbor rate, once elected, shall remain in place for the entire term of this Agreement, and be applicable for use as "home" and "field" fringe benefit and overhead rates, if applicable, and shall not be subject to audit under this Agreement. All other provisions of Section 5.2 remain in place.

5.3 Reimbursable Expenses. For reimbursement of any travel costs, travel-related expenses, or other direct nonsalary expenses directly attributable to this Project permitted under this Agreement, Consultant agrees to adhere to Section 112.061, Florida Statutes, except to the extent otherwise stated herein. Municipality shall not be liable for any such expenses that have not been approved in writing in advance by the Contract Administrator. Reimbursable Subconsultant expenses must also comply with the requirements of this section.

5.4 Method of Billing.

5.4.1 For Maximum Amount Not-To-Exceed Compensation. Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner for all Salary Costs and Reimbursable Expenses attributable to the Project. These billings shall identify the nature of the work performed, the total hours of work performed, and the employee category of the individuals performing same. Billings shall itemize and summarize Reimbursable Expenses by category and identify the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by Contract Administrator is required for Reimbursable Expenses, a copy of said approval shall accompany the billing for such reimbursable. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of Salary Costs and Reimbursable Expenses with accrual of the total and credits for portions paid previously. External Reimbursable Expenses and Subconsultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain a project number or other identifier that clearly indicates the expense is identifiable to the Project. Subsequent addition of the identifier to the invoice or receipt by Consultant is not acceptable except for meals and travel expenses. Internal expenses must be documented by appropriate Consultant's cost accounting forms with a summary of charges by category. When requested, Consultant shall provide backup for past and current invoices that records hours and Salary Costs by employee category, Reimbursable Expenses by category, and Subconsultant fees on a task basis, so that total hours and costs by task may be determined.

5.4.2 For Lump Sum Compensation. Consultant shall submit billings that are identified by the specific project number on a monthly basis in a timely manner. These billings shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished. Billings for each phase shall not exceed the amounts allocated to said phase. Billings shall also indicate the cumulative amount of CBE participation to date. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, Consultant shall provide backup for past and current invoices that record hours, salary costs, and expense costs on a task basis, so that total hours and costs by task may be determined.

5.5 Method of Payment.

5.5.1 Municipality shall pay Consultant within thirty (30) days after receipt of Consultant's proper invoice, as defined by the Local Government Prompt Payment Act, minus any applicable retainage or other deductions permitted by this Agreement.

5.5.2 Reserved.

5.5.3 Reserved.

5.5.4 Payment will be made to Consultant at the following address:

For	Electronic	Payment:
ABA#:	121000248	
Bank Name and Address:	Wells Fargo Bank N.A. San Francisco, CA 94163	
Account Number:	207 3089 159 554	
Account Name:	Kimley-Horn and Associates, Inc.	

For Payment by Check: Kimley-Horn and Associates, Inc. PO Box 932520 Atlanta, Georgia 31193-2520.

5.6 Fiscal Year. The continuation of this Agreement beyond the end of any Municipality fiscal year is subject to both the appropriation and the availability of transportation surtax funds in accordance with Title XI, Chapter 129, Florida Statutes.

5.7 Consultant must pay Subconsultants and suppliers providing Services under this Agreement within fifteen (15) days after receipt of payment from Municipality for such subcontracted work or supplies. If Consultant withholds an amount as retainage from a Subconsultant or supplier, Consultant shall release such retainage and pay same within fifteen (15) days after receipt of payment of retained amounts from Municipality. The Contract Administrator may, at its option, increase allowable retainage or withhold progress payments unless and until Consultant demonstrates timely payments of sums due to all Subconsultants and suppliers. Consultant shall include requirements substantially similar to those set forth in this section in its contracts with Subconsultants and suppliers.

5.8 Withholding by Municipality. Notwithstanding any provision of this Agreement to the contrary, Municipality may withhold payment, in whole or in part, (a) in accordance with Applicable Law, or (b) to the extent necessary to protect itself from loss on account of (i) inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator, or (ii) Consultant's failure to comply with any provision of this Agreement. The amount withheld shall not be subject to payment of interest by Municipality.

5.9 Foreign Entity Tax Withholding. Amounts due to certain foreign persons or entities may be subject to backup withholding taxes under federal law. If Consultant is a foreign person or entity that is required to complete Internal Revenue Service ("IRS") Form W-8ECI, Consultant shall provide Municipality a copy of Consultant's current Form W-8ECI prior to issuance of any invoice or payment under this Agreement. If Consultant fails to timely provide a completed, current Form W-8ECI, Municipality will withhold all backup withholding taxes from the amounts due Consultant, remit such sums to the IRS, and pay Consultant only the remainder. Municipality makes no representation regarding the tax treatment of amounts due to Consultant, and

Consultant releases and holds Municipality harmless from any claims or damages in any way relating to or arising from any tax withholding by Municipality pursuant to this section.

ARTICLE 6. OPTIONAL AND ADDITIONAL SERVICES; CHANGES IN SCOPE OF SERVICES

6.1 Municipality or Consultant may request changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement. Unless otherwise expressly permitted herein, such changes must be made in accordance with the provisions of the Municipality's procurement code and policies and must be contained in a written amendment.

6.2 If any goods or services under this Agreement, or the quantity thereof, are identified as optional ("Optional Services"), Municipality may select the type, amount, and timing of such goods or services pursuant to a work authorization ("Work Authorization") in substantially the form attached as [Exhibit D](#) executed by Consultant and Municipality pursuant to this section. No such selection, when combined with those goods or services required under this Agreement, may result in a payment obligation exceeding the applicable maximum amount stated in Article 5. A Work Authorization for Optional Services shall specify the method of compensation applicable to that Work Authorization and the required completion date for those additional services.

6.3 Notwithstanding anything to the contrary in this Agreement, Work Authorizations (and amendments thereto) for Optional Services shall be executed on behalf of Municipality as follows: (a) the City Manager may execute Work Authorizations for which the total cost to Municipality in the aggregate is less than \$30,000.00; (b) the Purchasing Director may execute Work Authorizations for which the total cost to Municipality in the aggregate is within the Purchasing Director's delegated authority; and (c) any Work Authorization above the City Manager's authority requires express approval by the Commission. Consultant shall not commence work on any Work Authorization until after receipt of a purchase order and issuance of a Notice to Proceed by the Contract Administrator.

6.4 If a dispute between the Contract Administrator and Consultant arises over whether any work requested by Municipality is within the scope of contracted Services and such dispute cannot be resolved by the Contract Administrator and Consultant, such dispute shall be promptly presented to the Municipality Manager or designee for resolution, whose decision shall be in writing and shall be final and binding on the Parties. During the pendency of any dispute, Consultant shall promptly perform the undisputed work, presuming Municipality continues to pay Consultant for undisputed amounts owed.

ARTICLE 7. REPRESENTATIONS AND WARRANTIES

7.1 Representation of Authority. Consultant represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Consultant, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Consultant has with any third party or violates Applicable Law. Consultant further represents

and warrants that execution of this Agreement is within Consultant's legal powers, and each individual executing this Agreement on behalf of Consultant is duly authorized by all necessary and appropriate action to do so on behalf of Consultant and does so with full legal authority.

7.2 Claims Against Consultant. Consultant represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental, or other board or official, pending or, to the knowledge of Consultant, threatened against or affecting Consultant, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Consultant to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Consultant or on the ability of Consultant to conduct its business as presently conducted or as proposed or contemplated to be conducted.

7.3 Solicitation Representations. Consultant represents and warrants that all statements and representations made in Consultant's proposal, bid, or other supporting documents submitted to Municipality in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Consultant executes this Agreement, unless otherwise expressly disclosed in writing by Consultant.

7.4 Contingency Fee. Consultant represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If this Agreement is subject to Section 287.055, Florida Statutes, the Parties agree and stipulate that the statutory language stated in Section 287.055(6)(a) is deemed included and fully incorporated herein.

7.5 Truth-In-Negotiation Representation. Consultant's compensation under this Agreement is based upon its representations to Municipality, and Consultant certifies that the wage rates, factual unit costs, and other information supplied to substantiate Consultant's compensation, including, without limitation, in the negotiation of this Agreement, are accurate, complete, and current as of the date Consultant executes this Agreement. Consultant's compensation will be reduced to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

7.6 Public Entity Crime Act. Consultant represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. Consultant further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Consultant has been placed on the convicted vendor list.

7.7 Discriminatory Vendor and Scrutinized Companies Lists. Consultant represents that it has not been placed on the “discriminatory vendor list” as provided in Section 287.134, Florida Statutes, and that it is not a “scrutinized company” pursuant to Sections 215.473 or 215.4725, Florida Statutes. Consultant represents and certifies that it is not, and for the duration of the Agreement will not be, ineligible to contract with Municipality on any of the grounds stated in Section 287.135, Florida Statutes.

7.8 Verification of Employment Eligibility. Consultant represents that Consultant and each Subconsultant have registered with and use the E-Verify system maintained by the United States Department of Homeland Security to verify the work authorization status of all newly hired employees in compliance with the requirements of Section 448.095, Florida Statutes, and that entry into this Agreement will not violate that statute. If Contractor violates this section, Municipality may immediately terminate this Agreement for cause and Contractor will be liable for all costs incurred by Municipality due to the termination.

7.9 Reserved.

7.10 Warranty of Performance. Consultant represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all required and optional Services under this Agreement, and that each person and entity that will provide Services is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render such Services. Consultant represents and warrants that the Services shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.

7.11 Prohibited Telecommunications Equipment. Consultant represents and certifies that it and its Subconsultants do not use any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system, as such terms are used in 48 CFR §§ 52.204-24 through 52.204-26. Consultant represents and certifies that Consultant and its Subconsultants shall not provide or use such covered telecommunications equipment, system, or services for the duration of this Agreement.

7.12 Breach of Representations. Consultant acknowledges that Municipality is materially relying on the representations, warranties, and certifications of Consultant stated in this article, and Municipality shall be entitled to exercise any or all of the following remedies if any such representation, warranty, or certification is untrue: (a) recovery of damages incurred; (b) termination of this Agreement without any further liability to Consultant; (c) set off from any amounts due Consultant the full amount of any damage incurred; and (d) debarment of Consultant.

ARTICLE 8. TERMINATION

8.1 Termination. This Agreement or any Work Authorization issued under this Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated for convenience by the Municipality. Termination for convenience by the Municipality shall be effective on the termination date stated in written notice provided by Municipality, which termination date shall be not less than thirty (30) days after the date of such written notice. If this Agreement or any Work Authorization was approved by Commission action, termination for cause by Municipality of the Agreement or Work Authorization, as applicable, must be by action of the Commission or such other officer of Municipality designated by the Commission; in all other instances termination for cause may be effected by the Municipality's representative expressly authorized under this Agreement (including any successor) who executed the Agreement or the Work Authorization, as applicable, on behalf of Municipality. This Agreement may also be terminated by the Municipality Manager upon such notice as the Municipality Manager deems appropriate under the circumstances if the Municipality Manager determines that termination is necessary to protect the public health, safety, or welfare. If Municipality erroneously, improperly, or unjustifiably terminates for cause, such termination shall be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause was provided and Consultant shall be eligible for the compensation provided in Section 8.4 as its sole remedy.

8.2 This Agreement or any Work Authorization may be terminated for cause by Municipality for reasons including, but not limited to, any of the following:

8.2.1 Consultant's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or Work Authorization, or repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices;

8.2.2 By the Contract Administrator for any fraud, misrepresentation, or material misstatement by Consultant in the award or performance of this Agreement or that violates any applicable requirement of Section 1-81, Broward County Code of Ordinances; or

8.2.3 By the Contract Administrator upon the disqualification of Consultant as a CBE or SBE if Consultant's status as a CBE or SBE was a factor in the award of this Agreement and such status was misrepresented by Consultant, or upon the disqualification of one or more of Consultant's CBE or SBE participants by County's Director of the Office of Economic and Small Business Development (OESBD) if any such participant's status as a CBE or SBE firm was a factor in the award of this Agreement and such status was misrepresented by Consultant during the procurement or the performance of this Agreement.

8.3 Notice of termination shall be provided in accordance with the “Notices” section of this Agreement except that notice of termination by the Municipality Manager to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

8.4 If this Agreement or a Work Authorization issued under this Agreement is terminated for convenience, Consultant shall be paid for any Services properly performed under this Agreement or Work Authorization through the termination date specified in the written notice of termination, subject to any right of Municipality to retain any sums otherwise due and payable. Consultant acknowledges that it has received good, valuable, and sufficient consideration for Municipality’s right to terminate this Agreement for convenience in the form of Municipality’s obligation to provide advance notice to Consultant of such termination in accordance with Section 8.1.

8.5 In addition to any termination rights stated in this Agreement, Municipality shall be entitled to seek any and all available contractual or other remedies available at law or in equity.

ARTICLE 9. INSURANCE

9.1 For the duration of the Agreement, Consultant shall, at its sole expense, maintain the minimum insurance coverages stated in [Exhibit C](#) in accordance with the terms and conditions of this article. Consultant shall maintain insurance coverage against claims relating to any act or omission by Consultant, its agents, representatives, employees, or Subconsultants in connection with this Agreement. Municipality reserves the right at any time to review and adjust the limits and types of coverage required under this article.

9.2 Consultant shall ensure that Municipality “City of Deerfield Beach, 150 NE 2nd Ave, Deerfield Beach, FL 33441” and “Broward County, 115 S. Andrews Avenue, Fort Lauderdale, Florida 33301” are both listed and endorsed as additional insureds as stated in Exhibit C on all policies required under this article, except workers’ compensation and professional liability.

9.3 On or before the date this Agreement is fully executed or at least fifteen (15) days prior to commencement of Services, Consultant shall provide Municipality with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by Municipality, Consultant shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after Municipality’s request.

9.4 Consultant shall ensure that all insurance coverages required by this article shall remain in full force and effect without any lapse in coverage for the duration of this Agreement and until all performance required by Consultant has been completed, as determined by Contract Administrator. Consultant or its insurer shall provide notice to Municipality any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any

cancellation due to nonpayment, and shall concurrently provide Municipality with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s).

9.5 All required insurance policies must be issued by insurers: (1) assigned an AM Best rating of at least “A-” with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by Municipality’s Risk Management Division.

9.6 All required insurance coverages shall provide primary coverage and not require contribution from any Municipality insurance, self-insurance or otherwise. All insurance held by Municipality, as well as Municipality’s self-insurance, shall be in excess of and shall not contribute to the required insurance provided by Consultant.

9.7 Consultant shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in [Exhibit C](#) and submit to Municipality for approval at least fifteen (15) days prior to the date this Agreement is fully executed or commencement of Services. Consultant shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against Municipality. Municipality may, at any time, require Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Consultant agrees that any deductible or self-insured retention may be satisfied by either the named insured or Municipality, if so elected by Municipality, and Consultant agrees to obtain same in endorsements to the required policies.

9.8 Unless prohibited by the applicable policy, Consultant waives any right to subrogation that any of Consultant’s insurer may acquire against Municipality and agrees to obtain same in an endorsement of Consultant’s insurance policies required under this article including any excess or umbrella policies.

9.9 Consultant shall require that each Subconsultant maintains insurance coverage that adequately covers the Services provided by that Subconsultant on substantially the same insurance terms and conditions required of Consultant under this article. Consultant shall ensure that all such Subconsultants comply with these requirements and that Municipality and “Broward County” are both named as additional insureds under the Subconsultants’ applicable insurance policies. Consultant shall not permit any Subconsultant to provide Services unless and until all applicable requirements of this article are satisfied.

9.10 If Consultant or any Subconsultant fails to maintain the insurance required by this Agreement, Municipality may pay any costs of premiums necessary to maintain the required coverage and deduct such costs from any payment otherwise due to Consultant. If requested by Municipality, Consultant shall provide, within one (1) business day, evidence of each Subconsultant’s compliance with this section.

9.11 If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the date this Agreement is fully executed; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit C; and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the date this Agreement is fully executed, Consultant must obtain and maintain “extended reporting” coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit C.

ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY

10.1 No Party may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. Consultant shall include the foregoing or similar language in its contracts with any Subconsultants, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2 Consultant shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, in the award and administration of this Agreement. Failure by Consultant to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit Municipality to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other Applicable Law, all such remedies being cumulative.

10.3 Reserved.

10.4 Reserved.

10.5 Reserved.

10.6 Consultant acknowledges that County may make minor administrative modifications to Section 1-81, Broward County Code of Ordinances, which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Consultant and shall include a deadline for Consultant to notify Municipality in writing if Consultant concludes that the modification exceeds the authority under this section. Failure of Consultant to timely notify Municipality of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Consultant.

10.7 Reserved.

10.8 Reserved.

ARTICLE 11. MISCELLANEOUS

11.1 Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Consultant to manage and supervise the performance of this Agreement. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Municipality's codes or policies, the Contract Administrator may exercise ministerial authority in connection with the day-to-day management of this Agreement provided that such instructions and determinations do not change the Scope of Services. The Contract Administrator may designate one or more of Municipality's employees with authority pertaining to day-to-day Project management or activities. Consultant shall notify Contract Administrator in writing of Consultant's representative(s) to whom matters involving the Project shall be addressed.

11.2 Rights in Documents and Work. Any and all documents, reports, studies, photographs, surveys, drawings, maps, models, photographs, specifications, materials, data, or other work created by Consultant in connection with performing Services, whether finished or unfinished ("Documents and Work"), shall be owned by Municipality, and Consultant hereby transfers to Municipality all right, title, and interest, including any copyright or other intellectual property rights, in or to the Documents and Work. Upon expiration or termination of this Agreement, the Documents and Work shall become the property of Municipality and shall be delivered by Consultant to the Contract Administrator within fifteen (15) days after expiration or termination. Any compensation due to Consultant may be withheld until all Documents and Work are received as provided in this Agreement. Consultant shall ensure that the requirements of this section are included in all agreements with its Subconsultant(s). All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement. They are not intended or represented to be suitable for use or reuse by the Municipality or others on extensions of this project or on any other project. Any modifications by the Municipality to any of the Consultant's documents, or any reuse of the documents without written authorization by the Consultant will be at the Municipality's sole risk and without liability to the Consultant.

11.3 Living Wage Requirement. Unless this Agreement is exempt under federal law, to the extent Consultant is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Consultant agrees to and shall pay to all of its employees providing "covered services," as defined in the ordinance, a living wage as required by such ordinance, and shall fully comply with the requirements of such ordinance, and that Consultant shall ensure all of its Subconsultants that qualify as "covered employers" fully comply with the requirements of such ordinance.

11.4 Public Records. To the extent Consultant is acting on behalf of Municipality as stated in Section 119.0701, Florida Statutes, Consultant shall:

11.4.1 Keep and maintain public records required by Municipality to perform the services under this Agreement;

11.4.2 Upon request from Municipality, provide Municipality with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;

11.4.3 Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and after completion or termination of this Agreement if the records are not transferred to Municipality; and

11.4.4 Upon completion or termination of this Agreement, transfer to Municipality, at no cost, all public records in possession of Consultant or keep and maintain public records required by Municipality to perform the services. If Consultant transfers the records to Municipality, Consultant shall destroy any duplicate public records that are exempt or confidential and exempt. If Consultant keeps and maintains the public records, Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Municipality upon request in a format that is compatible with the information technology systems of Municipality.

11.4.5 A request for public records regarding this Agreement must be made directly to Municipality, who will be responsible for responding to any such public records requests. Consultant will provide any requested records to Municipality to enable Municipality to respond to the public records request.

11.4.6 Any material submitted to Municipality that Consultant contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) ("Trade Secret Materials") must be separately submitted and conspicuously labeled "EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET." In addition, Consultant must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If that a third party submits a request to Municipality for records designated by Consultant as Trade Secret Materials, Municipality shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Consultant. Consultant shall indemnify and defend Municipality and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments, and liabilities of any kind, including attorneys' fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

**IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF
CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE**

PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT

City Custodian of Public Records: SAMANTHA GILLYARD, CITY CLERK

Mailing address: 150 N.E. 2ND AVE.,
DEERFIELD BEACH, FL 33441
Telephone number: 954-480-4213
Email: WEB.CLERK@DEERFIELD-BEACH.COM

11.5 Audit Rights and Retention of Records. Consultant shall preserve all Contract Records (as defined below) for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Contract Records shall, upon reasonable notice, be open to inspection and subject to audit and reproduction during normal business hours. Audits and inspections pursuant to this section may be performed by any representative of Municipality and/or County (including any outside representative engaged by either entity). Municipality and County may conduct audits or inspections at any time during the term of this Agreement and for a period of three (3) years after the expiration or termination of this Agreement (or longer if required by Applicable Law, Municipality, and/or County). County may, without limitation, verify information, payroll distribution, and amounts through interviews, written affirmations, and on-site inspection with Consultant's employees, Subconsultants, vendors, or other labor.

11.5.1 Contract Records include any and all information, materials and data of every kind and character, including, without limitation, records, books, papers, documents, subscriptions, recordings, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, drawings, receipts, vouchers, memoranda, and any and all other documents that pertain to rights, duties, obligations, or performance under this Agreement. Contract Records include hard copy and electronic records, written policies and procedures, time sheets, payroll records and registers, cancelled payroll checks, estimating work sheets, correspondence, invoices and related payment documentation, general ledgers, insurance rebates and dividends, and any other records pertaining to rights, duties, obligations, or performance under this Agreement, whether by Consultant or Subconsultants.

11.5.2 Municipality and Broward County shall have the right to audit, review, examine, inspect, analyze, and make copies of all Contract Records at a location within Broward County, Florida. Consultant hereby grants Municipality and County the right to conduct such audit or review at Consultant's place of business, if deemed appropriate by Municipality or Broward County, with seventy-two (72) hours' advance notice. Consultant agrees to provide adequate and appropriate workspace for such review. Consultant shall provide Municipality and County with

reasonable access to Consultant's facilities, and Municipality and County shall be allowed to interview all current or former employees to discuss matters pertinent to the performance of this Agreement.

11.5.3 Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for Municipality's disallowance and recovery of any payment upon such entry.

11.5.4 If an audit or inspection in accordance with this section discloses overpricing or overcharges to Municipality of any nature by Consultant or its Subconsultants in excess of five percent (5%) of the total contract billings reviewed, in addition to making adjustments for the overcharges, Consultant shall pay the actual cost of the audit or, if the actual cost is unreasonably high, the reasonable cost. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days after presentation of the audit findings to Consultant.

11.5.5 Consultant shall, by written contract, require its Subconsultants to agree to the requirements and obligations as stated in Sections 11.4 and 11.5.

11.6 Subconsultants. Consultant shall utilize only the Subconsultants identified in [Exhibit E](#), Schedule of Subconsultants, to provide the Services for this Project. Consultant shall obtain written approval of Contract Administrator prior to changing or modifying the Schedule of Subconsultants, which shall be automatically updated upon such written approval. Consultant shall bind in writing each and every approved Subconsultant to the terms stated in this Agreement, provided that this provision shall not, in and of itself, impose the insurance requirements set forth in Article 9 on Consultant's Subconsultants.

11.7 Assignment. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit the non-assigning Party to immediately terminate this Agreement, in addition to any other remedies available to the non-assigning Party at law or in equity. Municipality reserves the right to condition its approval of any assignment, transfer, encumbrance, or subcontract upon further due diligence and an additional fee paid to Municipality to reasonably compensate it for the performance of any such due diligence.

11.8 Indemnification of Municipality. Consultant shall indemnify and hold harmless Municipality and its current, past, and future officers and employees from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness or intentionally wrongful conduct of Consultant or other persons employed or utilized by Consultant in the performance of this Agreement. The provisions of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by Contract Administrator and Municipality Attorney, any sums due Consultant under this Agreement may be retained by Municipality until all of Municipality's

claims subject to this indemnification obligation have been settled or otherwise resolved, and any amount withheld shall not be subject to payment of interest by Municipality.

11.9 Prior Agreements. This Agreement is the final and complete understanding of the Parties regarding the subject matter of this Agreement and supersedes all prior and contemporaneous negotiations and discussions regarding same. All commitments, agreements, and understandings of the Parties concerning the subject matter of this Agreement are contained herein.

11.10 Amendments. Unless otherwise expressly authorized herein, no modification, amendment, or alteration of any portion of this Agreement is effective unless contained in a written document executed with the same or similar formality as this Agreement and by duly authorized representatives of Municipality and Consultant.

11.11 Notices. In order for a notice to a Party to be effective under this Agreement, notice must be sent via U.S. first-class mail, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via e-mail, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). Addresses may be changed by the applicable Party providing notice of such change in accordance with this section.

FOR MUNICIPALITY:

City of Deerfield Beach
Attn: David Santucci, City Manager
120 NE 2nd Ave
Deerfield Beach, Florida 33441
Email address: dsantucci@deerfield-beach.com

FOR CONSULTANT:

Kimley-Horn and Associates
Attn: Burt Baldo, Project Manager
355 Alhambra Circle, Suite 1400
Coral Gables, Florida 33134
Email address: _burt.baldo@kimley-horn.com

11.12 Interpretation. The titles and headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as “herein” refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all subsections thereof, unless the reference is made to a particular subsection or subparagraph of such section or article. Any reference to “days” means calendar days, unless otherwise expressly stated.

11.13 Consultant's Staff. Consultant will provide the key staff identified in its proposal for Project as long as said key staff are in Consultant's employment. Consultant will obtain prior written approval of Contract Administrator to change key staff. Consultant shall provide Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. Contract Administrator will be reasonable in evaluating key staff qualifications. If Contract Administrator desires to request removal of any of Consultant's staff, Contract Administrator shall first meet with Consultant and provide reasonable justification for said removal; upon such reasonable justification, Consultant shall use good faith efforts to remove or reassign the staff at issue.

11.14 Drug-Free Workplace. To the extent required under Section 21.31(a)(2), Broward County Administrative Code, or Section 287.087, Florida Statutes, Consultant certifies that it has and will maintain a drug-free workplace program for the duration of this Agreement.

11.15 Independent Contractor. Consultant is an independent contractor under this Agreement, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services under this Agreement, neither Consultant nor its agents shall act as officers, employees, or agents of Municipality, except as authorized by the Contract Administrator for permitting, licensing, or other regulatory requirements. Consultant shall not have the right to bind Municipality to any obligation not expressly undertaken by Municipality under this Agreement.

11.16 Regulatory Capacity. Notwithstanding the fact that Municipality is a political subdivision with certain regulatory authority, Municipality's performance under this Agreement is as a Party to this Agreement and in the capacity of Municipality as owner of the Project. If Municipality exercises its regulatory authority, the exercise of such authority and the enforcement of Applicable Law shall have occurred pursuant to Municipality's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to Municipality as a Party to this Agreement.

11.17 Sovereign Immunity. Nothing herein is intended to serve as a waiver of sovereign immunity by Municipality nor shall anything included herein be construed as consent by Municipality to be sued by third parties in any matter arising out of this Agreement. Municipality is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

11.18 Third-Party Beneficiaries. Except for County to the extent expressly identified herein, neither Consultant nor Municipality intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that, other than County, there are no third-party beneficiaries to this Agreement and that no third party other than County shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.19 Reserved.

11.20 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term. Municipality's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of this Agreement. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.21 Compliance with Laws. Consultant and the Services must comply with all Applicable Law, including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and the requirements of any applicable grant agreements.

11.22 Severability. If any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.

11.23 Joint Preparation. This Agreement has been jointly prepared by the Parties and shall not be construed more strictly against either Party.

11.24 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect.

11.25 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **EACH PARTY HEREBY EXPRESSLY WAIVES ANY RIGHTS IT MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A DEMAND FOR A JURY TRIAL AFTER WRITTEN NOTICE BY THE OTHER PARTY, THE PARTY MAKING THE DEMAND FOR JURY TRIAL SHALL BE LIABLE FOR REASONABLE ATTORNEYS' FEES AND COSTS OF THE OTHER PARTY TO CONTEST THE DEMAND FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.**

11.26 Reuse of Project. Municipality may, at its option, reuse (in whole or in part) the resulting end-product or deliverables resulting from Consultant's Services (including, but not limited to, drawings, specifications, other documents, and services as described herein and in Exhibit A); and Consultant agrees to such reuse in accordance with this provision. If the Contract Administrator elects to reuse the services, drawings, specifications, and other documents, in whole or in part,

prepared for this Project for other projects on other sites, Consultant will be paid a reuse fee to be negotiated between Consultant and Municipality, subject to approval by the proper awarding authority. Each reuse shall include all Basic Services and modifications to the drawings, specifications, and other documents normally required to adapt the design documents to a new site. This reuse may include preparation of reverse plans, changes to the program, provision for exceptional site conditions, preparation of documents for off-site improvements, provisions for revised solar orientation, provisions for revised vehicular and pedestrian access, and modifications to building elevations, ornament, or other aesthetic features. In all reuse assignments, the design documents shall be revised to comply with building codes and other jurisdictional requirements current at the time of reuse for the new site location. The terms and conditions of this Agreement shall remain in force for each reuse project, unless otherwise agreed by the Parties in writing.

11.27 Payable Interest.

11.27.1 Payment of Interest. Unless prohibited by Applicable Law, Municipality shall not be liable for interest to Consultant for any reason, whether as prejudgment interest or for any other purpose, and Consultant waives, rejects, disclaims, and surrenders any and all entitlement to interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement.

11.27.2 Rate of Interest. If the preceding subsection is inapplicable or is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by Municipality under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under Applicable Law, one quarter of one percent (0.25%) simple interest (uncompounded).

11.28 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.29 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

11.30 Reserved.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: Municipality, City of Deerfield Beach through its Commission, signing by and through its City Manager authorized to execute same by Commission action on the _____ day of February, 2022, and CONSULTANT, signing by and through its _____, duly authorized to execute same.

MUNICIPALITY

WITNESS:

Signature of Witness

By: _____
David Santucci, City Manager

Print or Type Name of Witness

_____ day of _____, 2022

Signature of Witness

Print or Type Name of Witness

ATTEST:

Samantha Gillyard, City Clerk

Approved as to legal form by:

Anthony C. Soroka, City Attorney

**AGREEMENT BETWEEN CITY OF DEERFIELD BEACH
AND KIMLEY-HORN AND ASSOCIATES, INC. FOR CONSULTANT SERVICES FOR
FAU RESEARCH PARK BLVD. (SW 11TH WAY) IMPROVEMENTS PROJECT
(RFQ # 22-04-PC)**

FOR CORPORATION:

Consultant

ATTEST:

Kimley-Horn and Associates, Inc.

Secretary

By _____
President/Vice President

(Typed Name of Secretary)

(Typed Name and Title)

CORPORATE SEAL

___ day of _____, 20__.

Exhibit A
Scope of Services

Exhibit B
Maximum Billing Rates

Project No: [Project Number]
Project Title: [Project Title]
Consultant/ [Name]
Subconsultant Name:

TITLE	MAXIMUM HOURLY RATE (\$/HR)	X	MULTIPLIER	=	MAXIMUM BILLING RATE
			3.2425		(\$/HR)
Principal	\$100.00		3.2425		\$324.25
Project Manager	\$81.74		3.2425		\$265.04
Chief Engineer	\$93.33		3.2425		\$302.62
Chief Planner	\$93.33		3.2425		\$302.62
Senior Engineer	\$93.33		3.2425		\$302.62
Senior Planner	\$87.98		3.2425		\$284.98
Designer	\$61.54		3.2425		\$199.54
Project Engineer	\$80.30		3.2425		\$260.37
Project Planner	\$81.92		3.2425		\$265.62
Engineer	\$64.44		3.2425		\$208.94
Planner	\$54.82		3.2425		\$177.75
GIS Specialist	\$65.40		3.2425		\$212.06
Analyst	\$43.28		3.2425		\$140.33
Senior Project Specialist	\$53.38		3.2425		\$173.08
Project Specialist	\$36.79		3.2425		\$119.29

Multiplier of 3.2425 is calculated as follows:

OVERHEAD = 135.00%

%FRINGE = 59.77%

OPERATING MARGIN = 10.00%

MULTIPLIER = $(1 + \text{OVERHEAD} + \text{FRINGE} + ((1 + \text{OVERHEAD} + \text{FRINGE}) \times \text{OPERATINGMARGIN})) / 1$

Consultant

Municipality

Name/Title

Contract Administrator

Date: _____

Date: _____

[Municipal Form Consultant Agreement]

[BCF #202 5/1/2021]

Exhibit C
Minimum Insurance Requirements

1. General

- a. Consultant shall furnish to the Purchasing and Contract Administration Division a Certificate of Insurance or endorsements evidencing the insurance coverage specified herein. The required Certificates of Insurance shall name the types of policies provided, refer specifically to the Agreement (Solicitation Title and Number), and state that such insurance is as required by this Agreement. Consultant's failure to provide to City the Certificates of Insurance or endorsements evidencing the insurance coverage within fifteen (15) calendar days of notification of award shall provide the basis for the termination of the Agreement.
- b. Such policy or policies shall be issued by approved companies authorized to do business in the State of Florida. Consultant shall be responsible to pay all deductible amounts, if any. Consultant shall specifically protect City and the Deerfield Beach City Commission by naming City and the Deerfield Beach City Commission as additional insured under all required liability policies except for Workers Compensation and secure waivers of subrogation, in favor of the City of Deerfield Beach, on all liability and workers' compensation policies.
- c. Coverage is not to cease and is to remain in force (subject to cancellation notice) until all performance required of Consultant is complete including all renewal terms. All policies must be endorsed to provide City with at least thirty (30) days' notice of expiration, cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the work, copies of renewal policies shall be furnished at least thirty (30) days prior to the date of their expiration.
- d. City reserves the right to review and revise any insurance requirements at the time of renewal or amendment of this Agreement, including, but not limited to, deductibles, limits, coverage, and endorsements based on insurance market conditions affecting the availability or affordability of coverage, or changes in the scope of work or specifications that affect the applicability of coverage. If Consultant uses a subconsultant, Consultant shall ensure that subconsultant names City and the Deerfield Beach City Commission as additional insured under the Commercial Liability Policy as well as on any Excess Liability Policy coverage.

2. Coverages

Consultant shall, at a minimum, provide, pay for, and maintain in force at all times during the term of this Agreement the following insurance as indicated with exes:

- ☒ **Commercial Liability Insurance** - A Commercial Liability Insurance Policy shall be provided which shall contain limits of no less than One Million Dollars (\$1,000,000.00) per occurrence for bodily injury liability, personal injury liability and property damage liability on a per project basis and shall contain limits of no less

than a Two Million Dollars (\$2,000,000.00) aggregate.

Coverage must be afforded on a form no more restrictive than CG 20 10 10 01 and CG 20 37 10 01 Commercial Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office and must include: premises and operations, independent Consultants, products and/or completed operations for contracts, broad form contractual coverage applicable to this specific Agreement including any hold harmless and/or indemnification Agreement, personal injury coverage with employee and contractual exclusions removed and policy limits shall be applied on a primary and non-contributory basis.

- ☒ **Professional Liability (Errors & Omissions) Insurance** - Professional Liability Insurance with the limits of liability provided by such policy for each claim and on a claim made basis or on an occurrence basis to be no less than one million Dollars (\$1,000,000.00) per occurrence with a limit of no less than two million dollars (\$2,000,000.00) aggregate with a deductible per claim not to exceed ten percent (10%) of the limit of liability. Consultant(s) shall notify the City in writing within thirty (30) days of any claim filed or made against its Professional Liability Insurance Policy. Consultant(s) acknowledges that the City is relying on the competence of the Consultant to design a project to meet its functional intent. If it is determined during construction of a project that changes must be made due to Consultant's negligent errors and omissions, Consultant shall promptly rectify them at no cost to City and shall be responsible for additional costs, if any, of a project to the proportional extent caused by such negligent errors or omissions.
- ☒ **Business Automobile Liability** - Business Automobile Liability shall be provided with minimum limits of One Million Dollars (\$1,000,000.00) per occurrence or combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must at a minimum include liability coverage symbols: 2 (owned vehicles), 8 (hired vehicles) and 9 (non-owned vehicles).
- ☒ **Workers Compensation Insurance** - Workers' Compensation insurance to apply for all employees in compliance with Chapter 440, Florida Statutes, as may be amended from time to time, the "Workers' Compensation Law" of the State of Florida, and all applicable Federal laws. In addition, the policy(ies) must include employers' liability with a limit of One Million Dollars (\$1,000,000.00) each accident, One Million Dollars (\$1,000,000.00) aggregate limit by disease and One Million Dollars (\$1,000,000.00) each employee by disease. Additionally, if there will be operations undertaken on or about navigable waters, a coverage endorsement must be included for the U.S. Longshoremen & Harbor Workers Act and Jones Act. If exempt for Worker's Compensation, proper documentation shall be provided.

Exhibit D
Work Authorization

Agreement Title: _____
Agreement Date: _____
Contract Number: _____
Work Authorization No. _____
Consultant: _____

This Work Authorization is between Municipality and Consultant pursuant to the Agreement. Consultant affirms that the representations and warranties in the Agreement are true and correct as of the date this Work Authorization is executed by Consultant. In the event of any inconsistency between this Work Authorization and the Agreement, the provisions of the Agreement shall govern and control.

The time period for this Work Authorization will be from the date of Municipality's Notice to Proceed until [three hundred and ninety (390)] days after the Notice to Proceed, unless otherwise extended or terminated by the Contract Administrator.

Services to be provided:

--

The applicable not-to-exceed amount stated in the Agreement for the work at issue is: \$_____].

The total fee for goods and services under this Work Authorization is: \$_____ ("Total Fee").

The Total Fee shall be invoiced by Consultant upon written acceptance by Municipality of all goods and services provided under this Work Authorization.

(Signatures appear on the following page.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Work Authorization, effective as of the date the last party signs this Work Authorization.

Municipality

Project Manager

Date

Contract Administrator

Date

City Manager or designee

Date

Approved as to form by Municipality's Attorney:

[Insert Name and Title]

Date

Consultant

WITNESSES

Kimley-Horn and Associates, Inc.

Signature

Signed

Date

Print/Type Name

Print/Type Name

Signature

Title

Print/Type Name

ATTEST

Signed

Date

(Print/Type Name of Secretary)

CORPORATE SEAL

Exhibit E
Schedule of Subconsultants

Project No: [DEER-007]
Project Title: [FAU Research Park Blvd (SW 11 Way) Improvement Project]
Facility Name: [FAU Research Park Blvd (SW 11 Way)]

No.	Firm Name	Discipline
1.	Stoner Surveyors and Mappers	Surveying
2.	Smith Engineering Consultants, Inc.	Electrical Engineering
3.	Constructive Engineering, Inc.	Signalization and Utility Coordination
4.	Arehna Engineering Inc.	Geotechnical Engineering
5.	Craig A Smith & Associates	Subsurface Utility Locates
6.		
7.		
8.		
9.		
10.		
11.		
12.		

Via email: Asoroka@wsh-law.com
and Pcygielnik@deerfield-beach.con

February 3, 2022

Anthony C. Soroka, City Attorney and
Priscilla Cygielnik, P.E., Director of Environmental Services
City of Deerfield Beach
150 NE 2nd Avenue
Deerfield Beach, FL 33441

RE: Broward County's Approval of Proposed Contract Pursuant to Sections 3.3 and 3.5.2 of the
Interlocal Agreement between Broward County and the City of Deerfield Beach for Surtax-
Funded Municipal Transportation Project: DEER-007 ("Agreement")

Dear Mr. Soroka and Ms. Cygielnik:

On January 31, 2022, we received the City of Deerfield Beach's ("City") Notice of Proposed Award and Proposed Consulting Agreement with Kimley-Horne and Associates, Inc. ("Consulting Agreement"). Pursuant to sections 3.3 and 3.5.2 of the Agreement, this letter confirms Broward County's approval of and concurrence with the proposed award of the Consulting Agreement. Please note that no subsequent material changes to the proposed Consulting Agreement may be made without prior written approval from the Office of the County Attorney.

Pursuant to section 3.5.2 of the Agreement, the City agrees and acknowledges that Broward County's approval or disapproval of the proposed agreement does not constitute a legal opinion, including without limitation as to the legal sufficiency of the Consulting Agreement, for use or reliance by the City or any third party and shall not be the basis for any claim or liability against Broward County or asserted to avoid any reimbursement or other obligation of the City under the Agreement.

Should you have any questions, please feel free to contact me.

Sincerely,



Angela J. Wallace

Transportation Surtax General Counsel

EXHIBIT A

SCOPE OF SERVICES

FAU RESEARCH PARK BLVD. (SW 11TH WAY) IMPROVEMENTS PROJECT (RFQ # 22-04-PC)

Kimley-Horn and Associates, Inc. is pleased to submit Exhibit A to the Agreement between the City of Deerfield Beach (“the Client” or “the City”) and Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “Consultant”) describing professional consulting services for FAU Research Park Blvd. (SW 11TH WAY) Improvements Project (RFQ # 22-04-PC) (“The Project”). Our project understanding, scope of services, schedule, and fee are below.

Project Understanding

The Project consists of professional survey, geotechnical, conceptual design services, and construction document design services for the conversion of an existing two-lane undivided roadway to a four-lane divided roadway with a raised median and complete-street improvements along FAU Research Park Boulevard from SW 48th Street to SW 10th Street in Deerfield Beach. It is anticipated that existing right/left turn lanes providing access to properties along the project limits will be maintained and will be replaced in kind. This project is a part of the Broward County Surtax Program which will generally cover improvements that are not categorized as beautification or aesthetics improvements.

Phase 1- Surtax Eligible Project Components (this authorization)

- Street lighting improvements illuminating right of way for vehicles, pedestrians, and bicyclists.
- Drainage improvements addressing storm water runoff from public roadway.
- Landscaping improvements that meet applicable design criteria considered for funding.
- Roadway improvements including widening from two lanes to four lanes with a raised median, buffered bicycle lane and sidewalks (minimum 5-feet wide).
- Signing and pavement marking that meets the applicable design criteria considered for funding including high visibility crosswalk markings.
- ADA accommodations.
- Intersection evaluation and design at SW 15th Street and FAU Research Boulevard.
- Gateway element or sign feature that applies the Surtax funding logo (required)

Phase 2- Non-Surtax Eligible Project Components (to be authorized at a later date)

Design services for the following items are not included in this Scope of Services. It is Kimley-Horn's understanding that design services for the ineligible items summarized below will be proposed under a separate agreement, to be funded by the City using alternate sources:

- Pedestrian decorative lighting.
- Decorative road signage including corridor entry sign.
- Architectural or brick pavers.
- Utility system improvements.
- Drainage improvements to address runoff from private roads and/or developments.
- Right-of-Way acquisition support.

Kimley-Horn proposes to include Stoner & Associates for surveying, AREHNA for geotechnical investigation, Constructive Engineering Inc, for signalization design and utility coordination, Craig A. Smith for subsurface utility verification, and Smith Engineering Consultants for lighting design. Scope of services for subconsultants are listed in Attachments A, B, C, D, and E.

Scope of Services

Kimley-Horn will provide the services specifically set forth below.

ASSUMPTIONS

This scope of services assumes the following:

- Design services for portions of the project identified above as Non-Surtax Eligible Project Components are excluded from this scope of services. It is understood that those services will be initiated under a separate agreement if required.
- It is anticipated that at intersections of NE 48th Street with FAU Research Boulevard and SW 10th Street and FAU Research Boulevard will not require signalization modifications.
- No cultural resources surveys, historic, or archeological services are assumed to be required for this project. These services are excluded from this scope of services.
- City will provide any existing information related to the City's facilities within or near the project area requested by the Consultant in a timely manner to avoid delay of the Project.
- City reviews of submittals will be provided in a timely manner.
- The City shall be responsible for the distribution of and preparation of material for public meetings and meetings with stakeholders.
- Lighting design is limited to photometric calculations to provide the proposed locations of FPL's light poles. This scope of services assumes that the Client will contract separately with FPL to furnish and install the lighting system under a tariff program. Electrical engineering services for the lighting system, wiring diagrams, service connection design, and controls is excluded from this scope of services.
- Bid Phase and Construction Phase services are to be proposed under a separate agreement.
- A traffic analysis to determine queue lengths along right/left turn lanes is not anticipated.

TASK 1: PROJECT MANAGEMENT

The Consultant will provide the following project management services related to initiating, planning, executing, controlling, and closing the Project:

- Contract management and sub-contract management
- Accounting and monthly invoicing
- Project schedule management
- Deliverables and submittals coordination
- Client service coordination beyond specific meetings noted in Tasks 2-4

TASK 2: SCHEMATIC DESIGN PHASE

Kimley-Horn will evaluate the corridor's existing conditions and capacity based on field verified topographic survey described in Subtask 2.3, field review, and traffic study. Upon the City's approval of methodology and design criteria, Kimley-Horn will prepare preliminary typical sections, a project layout, and a roundabout concept for the intersection of SW 15th Street and FAU Research Boulevard.

SUBTASK 2.1: TRAFFIC STUDY

Kimley-Horn will identify the initial parameters of the traffic analysis including data collection, analysis year, background growth rate, and analysis tools.

The methodology will be summarized in a technical memorandum submitted to BCTED for review and concurrence. The Consultant will revise the methodology one (1) time based on comments from the BCTED, if necessary.

Turning movement counts will be collected at the intersection of SW 15th Street and FAU Research Park Boulevard on a typical weekday (Tuesday, Wednesday, Thursday) during a maximum of three (3), 2-hour peak periods consisting of a weekday A.M. peak period, weekday school P.M. peak period, and weekday P.M. peak period. Furthermore, 24-hour continuous machine counts will be collected at two (2) locations (SW 15th Street and FAU Research Park Boulevard) and compared to FDOT historic data for the same locations (FDOT Sites 869559 and 867017). The collected turning movement counts will be adjusted based on the factor determined by comparing the collected machine counts to the historic FDOT data to adjust for atypical traffic conditions associated with the COVID-19 pandemic.

All traffic counts will be adjusted to account for seasonal variation using the appropriate Florida Department of Transportation's (FDOT) seasonal adjustment factors to represent peak season traffic conditions.

Vehicular conditions for the existing stop-controlled conditions with and without the lane widening will be examined to determine the level of service at the intersection of SW 15th Street and FAU Research Park Boulevard utilizing Trafficware's *SYNCHRO* software based upon the methodologies contained in Transportation Research Board's (TRB) *Highway Capacity Manual*, 2000, 2010, and 6th Editions. Vehicular conditions for the roundabout alternative will be examined utilizing Akcelik & Associates' *SIDRA Intersection* software which apply methodologies outlined in the *Highway Capacity Manual*, 2000, 2010, and 6th Editions. The study intersection will be analyzed for the proposed improvements expected future year timeframe(s) as defined in the methodology meeting with Broward County Traffic Engineering. Background traffic growth will be factored into the analysis. A background growth rate will be calculated and applied to the analysis.

The intersection capacity analysis will be completed for a maximum of five (5) scenarios: existing (2022) conditions, future (short-term) year conditions with lane widening and existing traffic control, future (short-term) year conditions with proposed roundabout, future (long-term) year conditions with lane widening and existing traffic control, and future (long-term) year conditions with proposed roundabout.

The traffic analysis will be documented in a report. The report will include graphics and tabulations plus text to describe the study procedure, key assumptions, alternatives, traffic redistribution, findings and recommendations.

The Consultant will prepare a maximum of two (2) sets of responses to comments each from the City of Deerfield Beach and/or BCTED directly related to the analyses performed in accordance with the approved methodology prepared as part of Task 1. Responses to comments beyond the previously approved methodology will be considered an additional service.

Deliverables: The following deliverables shall be provided under Subtask 2.1:

- Traffic Methodology Memorandum (PDF)
- Traffic Assessment Report (PDF)

Meetings: Kimley-Horn will attend the following meetings under Subtask 2.1:

- Two (2) virtual meetings as directed by the Client in support of the study. These meetings may include, but not be limited to, coordination meetings and comment resolution meetings.
- Kimley-Horn will prepare for and attend a maximum of one (1) meeting with the City of Deerfield Beach and/or Broward County Traffic Engineering Division (BCTED) to review the proposed parameters. The purpose of the meeting is to obtain concurrency on the parameters for the traffic analysis.

SUBTASK 2.2: PRELIMINARY ENGINEERING

Kimley-Horn will coordinate with the City and governmental agencies having jurisdiction to discuss conceptual layout, typical sections, and design criteria for proposed work. Preliminary typical section(s), one (1) roundabout concept for SW 15th Street and FAU Research Park Boulevard, and a roll plot showing proposed preliminary project layout will be prepared for the 30% Design Submittal. The roll plot will include roadway geometry, right-of-way information, and right-of-way impact information.

This task will include a review of as-built documents for the existing lift station in the intersection of SW15th Street to determine what modifications would be required to relocate the lift station for the conceptual roundabout configuration. No design services are included in this task. Kimley-Horn will request and review utility as-built drawing/survey data and will participate in one meeting with utility staff to evaluate the feasibility of relocating the lift station. The impacts/feasibility will be dependent on the number of pipes that flow to the station, the elevation of those pipes, the classification of the lines (forcemains, low pressure, gravity, etc.) and the configuration of the surrounding piping. Information prepared and presented to the City will be limited to that information necessary for the City to determine if the roundabout is a logistical option, including a description of necessary modifications, a schematic illustrating the extents of the impacts (no design) and an opinion of probable construction cost for the relocation.

A Basis of Design Report will be prepared providing documentation of design decisions, criteria, and Opinion of Probable Construction Costs using the Florida Department of Transportation (FDOT) Historical Unit prices. Kimley-Horn has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided will be based on the information known to Kimley-Horn at that time and represent only Kimley-Horn's judgement as a design professional familiar with the construction industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual construction costs will not vary from its opinions of probable costs.

A Conceptual Drainage Design Report will be prepared including drainage calculations for spread analysis, water quality and discharge.

Deliverables: The following deliverables shall be provided under Subtask 2.2:

- Basis of Design Report (PDF)
- Conceptual Drainage Report (PDF)
- Preliminary Typical Section on 11" x 17" plan sheets (PDF and four (4) printed copies)
- 30% Design Roll Plot 1"=50' Scale (PDF and one (1) Printed Copy)
- Opinion of Probable Cost (PDF)
- Preliminary Typical Section on 11" x 17" plan sheets (PDF and four (4) printed copies) for public workshop/commission meeting
- 30% Design Roll Plot (PDF and one (1) Printed Copy) at 50 scale for public workshop/commission meeting

Meetings: Kimley-Horn will attend the following meetings under Subtask 2.2:

- One (1) kick-off meeting with the City to discuss the project, desired design elements, and to review the project schedule.
- One (1) meeting with Broward County Highway Engineering Division and the City
- One (1) meeting to review preliminary typical section and roundabout design with the City
- One (1) 30% Design Review Meeting
- One (1) Public Workshop
- One (1) Meeting with the City Commission
- One (1) meeting with Broward County Environmental Engineering and Permitting Division

Attendance and/or participation at any meetings in addition to the ones listed above shall be considered additional services.

The 30% design roll plot and preliminary typical sections will be used during the public workshop and City Commission meetings. No other graphics are anticipated for these and other meetings.

SUBTASK 2.3: TOPOGRAPHIC SURVEY

A subconsultant to Kimley-Horn (Stoner & Associates) will provide the following services:

- Prepare a topographic survey within the project limits. The survey will extend 10 feet beyond the east and west right of way lines of FAU Research Boulevard, when accessible and allowed by private owners.
- Locate trees three caliper inches in diameter or larger with information shown on A tree legend affixed to the survey drawing and listing each tree species by common name, survey point number, and trunk diameter.

Refer to "Attachment A" for full scope of services.

SUBTASK 2.4: LIGHTING JUSTIFICATION REPORT

A subconsultant to Kimley-Horn (Smith Engineering Consultants Inc) will provide the following services:

- Prepare a lighting justification report including cost estimates consistent with Broward County and FDOT policies, and the criteria outlines in the most current version of the Florida Greenbook.
- Prepare a lighting design analysis report consistent with Broward County and FDOT policies, and the criteria outlined in the most current version of the Florida Greenbook.
- Prepare photometrics to indicate design illumination levels for installation of FPL LED roadway lighting along the project limits. The roadway lighting design will be based upon the use of FPL light poles and fixtures provided and installed by FPL.

Refer to "Attachment B" for full scope of services.

SUBTASK 2.5: UTILITY COORDINATION

A subconsultant to Kimley-Horn (Constructive Engineering Inc.) will provide the following services:

- Submit plans to known utility providers to seek input on the location of existing utilities. Based upon the information provided by the utility providers, update the plans to reflect the subject utilities.
- Obtain Utility Work Schedules or identified conflict resolution.

Refer to "Attachment C" for full scope of services.

TASK 3: DESIGN DEVELOPMENT PHASE

Kimley-Horn will prepare 60% and 90% construction drawings for the proposed improvements based on City's input provided on the 30% design submittal comments. Opinion of Probable Construction Costs will be provided at 60% and 90% design submittals. Kimley-Horn has no control over the cost of labor, materials, equipment, or over the Contractor's methods of determining prices or over competitive bidding or market conditions. Opinions of probable costs provided will be based on the information known to Kimley-Horn at that time and represent only Kimley-Horn's judgement as a design professional familiar with the construction industry. Kimley-Horn cannot and does not guarantee that proposals, bids or actual construction costs will not vary from its opinions of probable costs.

SUBTASK 3.1: ROADWAY PLANS & DRAINAGE ANALYSIS

We anticipate the plan set will include the following sheets:

- Key Sheet
- General Notes and Pay Item Notes
- Roadway Plans
 - o Kimley-Horn will prepare roadway plans (1"=50' Scale) that will include dimension control and roadway layout. Drainage improvements for this project will consist of bio retention swales and isolated segments of self-contained systems utilizing percolation for stormwater treatment and attenuation. We assume that only the public right-of-way within the project limits will be included as part of the improvements and that no private off-site developments will be contributing to the drainage. Maintenance of traffic will be addressed by providing typical sections and phasing notes only. Detailed phasing plans are not included in this scope of services. Drainage structure information (structure type, elevations, inverts will be shown in plan and profile view).
- Roadway Details
 - o Kimley-Horn will prepare detail sheets showing roadway and drainage details needed to supplement the roadway plans.
- Erosion Control Plan
 - o Kimley-Horn will prepare an erosion control plan (1"=50' Scale) and notes for the project. The plan will indicate erosion control measures to be implemented by the contractor prior to disturbing the site.
- Drainage Report
 - o The report will include drainage calculations for spread analysis, water quality and discharge will be performed and included in the report to be submitted to Broward County Environmental Engineering and Permitting Division.

Deliverables: The following deliverables shall be provided under Subtask 3.1:

- Three (3) sets of the 60% Plans at 1" =50' scale (PDF), and one (1) electronic copy.
- Three (3) sets of the 90% Plans at 1" =50' scale (PDF), and one (1) electronic copy.
- Drainage Report (PDF)
- Opinion of Probable Cost (PDF)

SUBTASK 3.2: SIGNING AND MARKING PLANS

Kimley-Horn will prepare proposed project signage and marking plan (1"=50' Scale) with associated details. Signing and marking is limited to relocating existing signs and the design of proposed improvements as necessary to accommodate the proposed improvements.

Deliverables: The following deliverables shall be provided under Subtask 3.2:

- Three (3) sets of the 60% Plans at 1" =50' scale (PDF), and one (1) electronic copy.
- Three (3) sets of the 90% Plans at 1" =50' scale (PDF), and one (1) electronic copy.
- Opinion of Probable Cost (PDF)

SUBTASK 3.3: SIGNALIZATION PLANS

A subconsultant to Kimley-Horn (Constructive Engineering, Inc.) will provide the following services:

- Prepare signalization plans for proposed High intensity Activated crossWalk (HAWK) Beacon at mid-block crossing in the area of Highland Christian Academy and Deerfield Beach High School.

Refer to "Attachment C" for full scope of services.

SUBTASK 3.4: STRUCTURAL ANALYSIS

Kimley-Horn will perform a structural analysis and develop plan details required for the proposed HAWK mast arms.

Deliverables: The following deliverables shall be provided under Subtask 3.4:

- Structural Analysis Report (PDF) with 90% plans submittal
- Standard Mast Arm Assemblies Data Table Plan Sheet (PDF included in the signalization plans) with 90% plans submittal

SUBTASK 3.5: LIGHTING ANALYSIS AND PLANS

A subconsultant to Kimley-Horn (Smith Engineering Consultants, Inc.) will provide the following services:

- Prepare a lighting design analysis report consistent with Broward County and FDOT policies, and the criteria outlined in the most current version of the Florida Greenbook.
- Prepare illumination calculations (photometrics) to indicate design illumination levels for installation of FPL LED roadway lighting along the project limits. The roadway lighting design will be based upon the use of FPL light poles and fixtures provided and installed by FPL.
- Pedestrian lighting design at two (2) intersections.
- Electrical service and distribution design to provide power to the pedestrian lighting system.

Refer to "Attachment B" for full scope of services.

SUBTASK 3.6: UTILITY COORDINATION

A subconsultant to Kimley-Horn (Constructive Engineering, Inc.) will provide the following services:

- Utility conflict matrix
- Implement subsurface utility locates performed by the surveyor (revising utility marks to reflect information provided by the surveyor, including TH numbers)
- Provide intelligent profiles with SUE information for utilities
- Coordination of new service point for the HAWK signal

Refer to "Attachment C" for utility coordination scope of services.

SUBTASK 3.7: DESIGN DEVELOPMENT PHASE MEETINGS

Deliverables: The following deliverables shall be provided under Subtask 3.7:

- Design Roll Plot (PDF and One (1) Printed Copy)

The 30% design roll plot and preliminary typical sections will be updated to reflect design changes up to two (2) times for use during the public workshop and City Commission meetings. No other graphics are anticipated for these and other meetings.

Meetings: Kimley-Horn will attend the following meetings under Subtask 3G:

- Two (2) Public Workshops
- Two (2) 60% and 90% Design Review Meeting
- One (1) Meeting with the City Commission
- One (1) meeting with Broward County Environmental Engineering and Permitting Division
- Two (2) progress meetings with the City Engineering Staff

Attendance and/or participation at any meetings in addition to the ones listed above shall be considered additional services.

SUBTASK 3.8: GEOTECHNICAL SERVICES

A subconsultant to Kimley-Horn (AREHNA) will provide the following services:

- Perform 12 Standard Penetration Test (SPT) borings to a depth of 6 feet along the project alignment. Samples will be collected, and Standard Penetration Test resistances will be measured continuously for the top ten feet at approximate intervals of five feet thereafter. The SPT borings will be backfilled with grout and the roadway will be patched with cold patch asphalt.
- Perform two Standard Penetration Test borings near the vicinity of the mast arm locations.
- Perform two pavement cores.
- Perform five SFWMD Usual Condition, Constant Head percolation/exfiltration tests to a depth of 15 feet below existing ground surface.
- Perform corrosion series testing for up to three soil samples.
- Collect two bulk samples for Limerock Bearing Ratio (LBR) Testing.
- Report the results of the field exploration and engineering analysis. The results of the subsurface exploration will be presented in a written report signed and sealed by a professional engineering.

Refer to "Attachment D" for full scope of services.

SUBTASK 3.9: SUBSURFACE UTILITY LOCATES

A subconsultant to Kimley-Horn (Craig A. Smith) will provide the following services:

- Utility test holes will be performed, and reports provided for each with utility depth, elevation, size, material, and type.

Refer to “Attachment E” for full scope of services.

TASK 4: FINAL CONTRACT DOCUMENTS

SUBTASK 4.1: PERMITTING SERVICES

Kimley-Horn will incorporate 60% review comments and submit for permits to the agencies below. Upon receipt of permit review comments Kimley-Horn will review with Client and address comments to resubmit to permitting agencies. At this stage it is not anticipated that the City will have any major comments, which would affect the permitting process. Any minor review comments by the City will be incorporated prior to resubmission to permit agencies.

Permits are anticipated from the following agencies for Tasks 3.1 thru Task 3.5:

1. **Broward County Highway Construction and Engineering Division**
 - a. Roadway and traffic control
2. **Broward County Traffic Engineering Division**
 - a. Signing and pavement markings
3. **Broward County Environmental Protection Department**
 - a. Surface Water License: Drainage
4. **National Pollutant Discharge Elimination System (NPDES):**
 - a. Notice of Intent
 - b. Preparation of Storm Water Pollution Prevention Plans (SWPPP) – City's Contractor shall complete the necessary application and submittal to obtain the general permit. The City's contractor shall be responsible for obtaining, maintaining, and operating the construction site according to the EPA and NPDES guidelines.
5. **City of Deerfield Beach**
 - a. Engineering

No other agency approvals are included in this scope of services other than those identified above. Kimley-Horn does not guarantee the issuance of permits or approvals. If permits are issued for this project, the conditions and expiration dates are the sole responsibility of the City. Kimley-Horn is not responsible for extending time limited entitlements or permits. The City shall provide all permit fees.

Deliverables: The following deliverables shall be provided under Subtask 4.1:

- Permit drawings will be submitted in 11" x 17" plan sheets at 1"=50' scale, with electronic copy.

Meetings: Kimley-Horn will attend the following meetings under Subtask 4.1:

Kimley-Horn will attend up to two (2) meetings per permit with agencies in advance of making permit applications and to resolve permitting comments. The Consultant will prepare meeting summaries and provide documentation to the Client. Kimley-Horn will respond with written responses and plan reversions up to two times per permit.

SUBTASK 4.2: CONSTRUCTION DOCUMENTS

Upon the City's approval of 90% plan comment responses and receipt of permitting agency comments, Kimley-Horn will begin preparing final contract documents. An updated Opinion of Probable Construction Cost will be provided. Kimley-Horn will submit the Final Plans and Specification design package to the Client for bidding.

Deliverables: The following deliverables will be provided under Task 4:

- Three (3) signed and sealed sets of the Final Plans at 1"=50' (PDF), and one (1) electronic copy.
- Specifications design package (PDF and Word) format, and one (1) electronic copy.
- Opinion of Probable Construction Cost (PDF)

Additional Services

Any services not specifically provided for in the above scope will be considered additional services and can be performed at our then current hourly rates or for a pre-negotiated fee. Additional services we can provide include, but are not limited to, the following:

- Overhead to underground utility conversion design and coordination
- Meetings and coordination beyond that specifically outlined above
- Major redesign effort due to changes in the overall project scope, budget, or programming after the preliminary engineering phase.
- Environmental Engineering Services and Field Investigations
- Collection of additional traffic counts
- Preparing analyses for additional time periods and/or analysis scenarios not specifically noted above
- Preparing additional responses to agency comments
- Traffic Studies or traffic engineering services not specifically noted above
- Permit expediting services
- Dewatering permitting
- Construction Phase Services and Bid Assistance
- Landscaping
- Utility relocation design and permitting not specifically mentioned in the "Scope of Services"

- Services not specifically mentioned in the “Scope of Services”
- Grant funding application and assistance
- Right-of-way acquisition support

Schedule

We will provide the above-described services outlined in an expeditious and orderly manner to meet the schedule mutually agreed to by the City and Kimley-Horn for the various elements of the project.

No.	Service Area Name	Deadline
1	Notice to Proceed and Commencement of Work	14 day after contract award
2	Basis of Design Report; (Inspection, Survey, Environmental Assessment)	60 days after NTP
3	30% Design Submittal	90 days after acceptance of Basis of Design Report, etc.
4	60% Design Submittal	90 days after acceptance of 30% Design Submittal
5	90% Design Submittal	90 days after acceptance of 60% Design Submittal
6	Final Plans, Specifications Package and Final Cost Estimate Submittal Permitting completed	60 days after acceptance of 90% Submittal

Fee and Billing

Kimley-Horn will perform the services described above per the task breakdown below. All permitting, application, and similar project fees will be paid directly by the Client.

Task No.	Task Description	Fee (\$)	CBE Subconsultant (\$)	Other Subconsultant (\$)
Task 1	Project Management	\$74,300.00		
Total Task 1	Project Management	\$74,300.00		
Subtask 2.1	Traffic Study	\$14,460.00		
Subtask 2.2	Preliminary Engineering	\$206,950.00		
Subtask 2.3	Topographic Survey		\$53,000.00	
Subtask 2.4	Lighting Justification Report		\$9,500.00	
Subtask 2.5	Utility Coordination		\$3,500.00	
Total Task 2	Schematic Design Phase	\$221,410.00	\$66,000.00	
Subtask 3.1	Roadway Plans and Drainage Analysis	\$280,040.00		
Subtask 3.2	Signing & Marking Plans	\$50,570.00		
Subtask 3.3	Signalization Plans		\$20,000.00	
Subtask 3.4	Structural Analysis	\$9,240.00		
Subtask 3.5	Lighting Analysis and Plans		\$17,000.00	
Subtask 3.6	Utility Coordination		\$11,500.00	
Subtask 3.7	Design Development Phase Meetings	\$24,400.00		
Subtask 3.8	Geotechnical Services		\$29,588.40	
Subtask 3.9	Subsurface Utility Locates			\$31,000.00
Total Task 3	Design Development Phase	\$384,250.00	\$58,088.40	\$31,000.00
Subtask 4.1	Permitting Services	\$21,670.00		
Subtask 4.2	Construction Documents	\$65,250.00	\$7,000.00	
Total Task 4	Final Contract Documents Phase	\$86,920.00	\$7,000.00	
Expense	Reimbursable Expenses	\$5,000.00		
	Total	\$751,880.00	\$151,088.40	\$31,000.00
	Grand Total			\$933,968.40

Attachment A – Surveying Scope of Services

January 6, 2022

Mr. Artem Strunnikov, P.E.
Kimley-Horn
355 Alhambra Circle
Suite 1400
Coral Gables, FL 33134

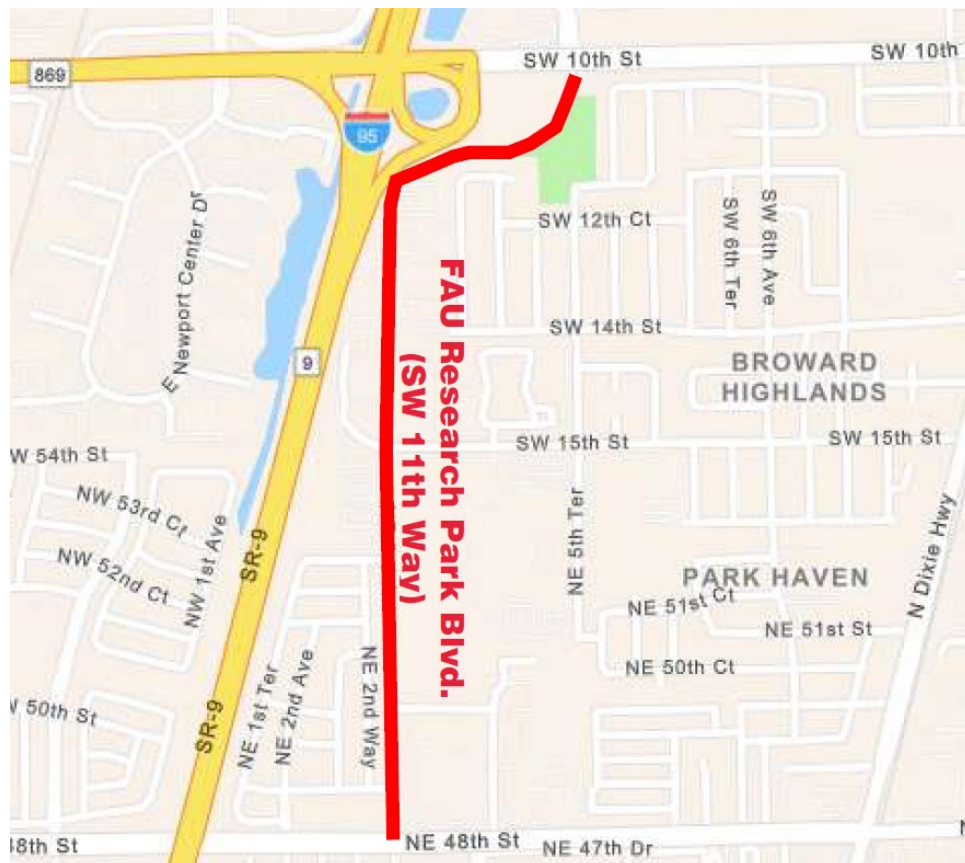
**RE: Proposal for Professional Surveying Services
FAU Research Park Boulevard
City of Deerfield Beach, FL**

Dear Mr. Strunnikov,

I am pleased to provide you with this proposal for surveying services at the above-referenced site. Based on the information that you provided, I have developed the scope of services shown below.

Site Limits:

FAU Research Park Boulevard (SW 11th Way) from the north right of way line of SW 48th Street to the south right of way line of SW 10th Street, as outlined in red in the sketch below:



Survey Type:

Stoner & Associates, Inc. (S&A) will prepare a Topographic and Tree Survey meeting the Standards of Practice established by The Board of Professional Surveyors and Mapper within the State of Florida.

SCOPE OF SERVICES:

Topographic Survey:

- Prepare a topographic survey within the project limits. The survey will extend 10 feet beyond the east and west right of way lines of FAU Research Boulevard, when accessible and allowed by private owners.
- Easements and dedications will be based on the plats of record, or a client supplied title report.
- Establish horizontal and vertical control points to support the survey efforts.
- Vertical control (elevations) will be based on North American Vertical Datum of 1988 (NAVD).
- Horizontal control will be based on the Florida State Plane Coordinates System, East Zone, North American Datum of 83/90.
- Establish a baseline of survey at the center of the calculated center of right of way, monument the beginning, end, points of curvature, points of tangency and every 1,000 in tangent lines.
- Obtain elevations at edge of pavement, top of curb, back of sidewalk at 50' intervals and any additional low and high point elevations that may exist between the intervals and at transitions such as driveways, private walkways, ramps, back and face of curb, flow line, etc. for the purpose of creating a Digital Terrain Model (DTM) surface.
- Locate surface features within the survey limits as follows: buildings, pavement, driveways, paved swales, sidewalks, private walkways, slabs, curbs, walls, fences, signage.
- Locate visible surface evidence of utilities as follows: utility poles, guy wires, street lighting, storm sewer structures, sanitary sewer structures, wire pull boxes, cable enclosures, utility cabinets, valves, valve boxes, meter boxes, backflow preventers, fire hydrants, and overhead utilities.
- S&A will survey (field locate) utility designations that are visible or marked out in the field (by others) and plot them on the survey drawing.
- Locate wetland flags with elevations delineating wetland boundaries, if any.
- Measure the rim and invert elevation of sanitary and storm sewer structures that are accessible. Determine pipe types, size, and flow direction, when possible. Structures located within active roadways will be as-built at the field crew's discretion, based on safety considerations.
- Locate pavement striping and parking spaces with type.
- Right of Way research is limited to what is shown on plats of records and also any Right of Way information included in the parcel Information as per Broward County Property Appraiser's office website.
- Reduce, check, and plot survey data at appropriate scale.
- Create an existing Digital Terrain Model (DTM) surface.

Tree Survey:

- Locate trees three caliper inches in diameter or larger.
- Tree species will be identified by common species name.
- Trees that cannot be identified by name will be listed as unknown species.
- The diameter of each tree trunk will be measured at breast height (DBH). Multiple-trunk trees will reflect the sum of all the trunks at DBH.
- A tree legend will be affixed to the survey drawing and will list each tree species by common name, survey point number, and trunk diameter.
- Exotic and invasive (nuisance) trees, as defined in the Broward County Tree Code, will not be located.
- Clusters of trees will be located as a clump.

Project Fee(s):	Amount
Survey Fee	\$53,000.00
Total :	\$53,000.00

Deliverables:

The survey drawings will be prepared utilizing AutoCAD, then export to Microstation file format. S&A will email you a copy of the survey in AutoCAD, Microstation and pdf format, a LandXML file with DTM surface data, and text files with survey points used to create the DTM surface. Certified hard copies of the drawings will be provided upon request and will be billed at the rates shown below for copies. Hard copies will be delivered by United States Postal Service Standard Mail. Other delivery methods will be invoiced at our cost for the service, plus 15% of the cost.

Black-Line Prints

18" x 24" = \$2.50 Per Sheet
24" x 36" = \$5.00 Per Sheet
30" x 42" = \$7.50 Per Sheet

Outside Printing

Cost + 15%

Courier Services

Cost + 15%

The above scope of services and associated fee(s) are based on the following:

- ALTA/NSPS Land Title Survey Specifications are not included unless specified otherwise in "SCOPE OF SERVICES."
- Client to provide S&A with the legal address and complete legal description of the property to be surveyed.
- Client to provide a recent opinion of title or title commitment, together with the associated documents listed therein. In the absence of an opinion of title or title commitment, information about ownership, easements and other matters of record, will be limited to data obtained from an on-line a search of the local County Property Appraisers website. Data obtained in this manner (on-line search) is not considered an official search of public records and may not include vital information that could affect the property being surveyed. Unless otherwise specified, a search of the public records for information affecting this property is not included in this "SCOPE OF SERVICES."
- Matters of zoning, land use, height, density, access, setbacks, will not be shown on the survey drawings unless specified otherwise in "SCOPE OF SERVICES."
- Environmental and soil conditions will not be shown on the survey drawings unless specified otherwise in "SCOPE OF SERVICES."
- Subsurface features will not be located or shown on the survey unless specified otherwise in "SCOPE OF SERVICES."
- Subsurface utilities remotely located from the surface of the ground, by electronic means are limited in reliability and accuracy. Before the final design of improvements or beginning construction, key alignments, horizontal and vertical locations, pipe sizes and measurements, should be verified by direct excavation and or measurements to verify and ensure the integrity of the data presented in the survey drawings.
- As-built measurements collected in active facilities (storm, sanitary and other structures), are limited in accuracy and reliability. Before the final design of improvements or beginning construction, critical measurements should be verified with the facilities pumped down and cleaned of effluent and derbies

to ensure the integrity of the data being presented in the survey drawings. Subsurface features will not be located or shown on the survey unless specified otherwise in "SCOPE OF SERVICES."

- Trees, shrubs, hedges and other vegetation will not be located or shown on the survey unless specified otherwise in "SCOPE OF SERVICES."
- Coordination with attorneys, title companies, outside consultants is not included and will be hourly at the rates shown below.
- Express delivery fees, copies of public records and printing fees are not included and will be billed at our cost.

Attachment B – Lighting Analysis and Plans Scope of Services



January 10, 2022

Mr. Artem Strunnikov, P.E.
Kimley-Horn
355 Alhambra Circle, Suite 1400
Coral Gables, FL 33134

Re: City of Deerfield Beach, FAU Research Park Roadway Lighting
Electrical Engineering Services Proposal

Dear Artem:

Smith Engineering Consultants, Inc. (SEC) is pleased to provide this proposal for the above referenced project. We propose to provide the following scope of services:

Preliminary Engineering: (Fee = \$9,500)

1. Perform a site visit to verify existing conditions.
2. Attend a project kickoff meeting with City staff to determine the appropriate lighting levels, types of poles and fixtures, and lighting controls desired for this project.
3. Prepare a lighting justification report including cost estimates consistent with Broward County and FDOT policies, and the criteria outlined in the most current version of the Florida Greenbook. The project limits are FAU Research Park Blvd (SW 11th Way) from SW 48th St. to SW 10th St.

Final Design: (Fee = \$19,000)

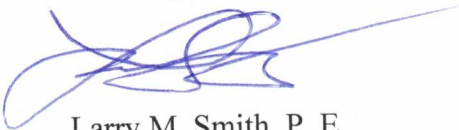
1. Prepare a lighting design analysis report consistent with Broward County and FDOT policies, and the criteria outlined in the most current version of the Florida Greenbook.
2. Prepare illumination calculations (photometrics) to indicate design illumination levels for installation of FPL LED roadway lighting along the project limits. The roadway lighting design will be based upon the use of FPL light poles and fixtures provided and installed by FPL. Therefore our scope of work for the roadway lighting is limited to performing the photometric calculations to provide the proposed locations of FPL's light poles. Illumination levels shall be in accordance with Table 6-1 Level of Illumination for Streets and Highways from the FDOT Manual of Uniform Minimum Standards for Design Construction and Maintenance for Streets and Highways (Florida Greenbook), latest edition.
3. Coordinate with FPL representatives as necessary throughout the project.

4. Pedestrian lighting design at three (3) intersections using decorative light poles and fixtures.
5. Electrical service and distribution design to provide power to the pedestrian lighting system in accordance with the National Electrical Code and applicable local codes.
6. Submit 100% plans, respond to review comments, and revise the plans accordingly. We propose to furnish drawings in AutoCAD format using base plan drawings provided by Kimley-Horn.

If other than FPL lighting is to be used for the roadway then a proposal for additional services will be prepared as a supplement to this proposal. Post design services will be addressed in a separate proposal.

Thank you for using Smith Engineering Consultants as the source for these engineering services. We look forward to working with you on this project.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Larry M. Smith', with a long, sweeping horizontal line extending to the right.

Larry M. Smith, P. E.
President

Attachment C– Signalization and Utility Coordination Scope of Services

City of Deerfield Beach - Project ID: DEER-007
FAU Research Park Blvd (SW 11th Way) Improvements Project, RFQ #22-04-PC

Introduction

Constructive Engineering, Inc. (CONST) will provide professional services for Utility Coordination and Signalization Design services to City of Deerfield Beach (the City) as a subconsultant to Kimley-Horn (Prime) in connection with the FAU Research Park Blvd improvements project.

Basic Services Summary

1. Utility Coordination
2. Signalization Analysis and Plans Preparation

1. Utility Coordination

Obtain a list of known utility providers in the project's vicinity from the "Sunshine One-Call" service.

Upon completion of the initial plans submit the plans to the known utility providers to seek input on the location of existing utilities.

Contact each provider up to three (3) times to obtain this information.

Based upon the information provided by the utility providers, update the plans to reflect the subject utilities.

After the 60% plans submittal, meet one (1) time with City representatives and invite representatives of all utility companies known to operate per the utility design ticket, to attend. The purpose of this meeting shall be to discuss any potential utility conflicts. Utility owners shall be responsible to relocate any utilities if required.

Follow up with utility owners for purposes of obtaining Utility Work Schedules or identified conflict resolution.

2. Signalization Analysis and Plans Production

Prepare signalization plans for proposed High intensity Activated CrossWalk (HAWK) Beacon at mid-block crossing in the area of Highland Christian Academy and Deerfield Beach High School. This task will include plan details required for the proposed HAWK mast arms, service point, and other signalization features.

Signalization plans will be included as part of the roadway plan set (not under separate key sheet).

Structural analysis for mast arms to be provided by Prime Consultant.

An opinion of probable cost will be prepared at Initial, 60%, 90% and 100% Sign-seal phases.

To perform these design services, our staff will attend up to three (3) phase review meetings, up to three (3) technical meetings with Prime Consultant and the City staff and up to two (2) meetings with the Broward County.

Applicable Design Standards and Specifications

We will follow all applicable Federal, State, and County laws, policies, regulations, standards, manuals, and guidelines including but not limited to the Americans with Disabilities Act (ADA), the Florida Department of Transportation Standard Plans and Specifications for Road and Bridge Construction, Manual of Uniform Minimum Standards for Design, Construction, and Maintenance for Streets and Highways (Commonly known as the Florida Greenbook), the Broward County Minimum Standards, FHWA Manual on Uniform Traffic Control Devices.

City of Deerfield Beach - Project ID: DEER-007
FAU Research Park Blvd (SW 11th Way) Improvements Project, RFQ #22-04-PC

Software and Delivery Methods

Bentley Microstation software will be utilized. Reports and Design Plans will be delivered in electronic format (3 submittals – 60%, 90%, and 100%-Sign-seal) unless otherwise requested.

Fee

Estimated fee for these services is as below:

1. Utility Coordination	\$ 15,000
2. Signalization Analysis and Plans Preparation	\$ 25,000
Total	<u>\$40,000</u>

Attachment D – Geotechnical Scope of Services

December 29, 2021

Artem Strunnikov, PE
355 Alhambra Circle, Suite 1400
Coral Gables, Florida 33134

artem.strunnikov@kimley-horn.com

Subject: **Proposal for Geotechnical Engineering Services**
 FAU Research Park Boulevard/SW 11th Way from SW 48th Street to SW 10th Street
 City of Deerfield Beach, Florida
 AREHNA T.Prop-21-173

AREHNA Engineering, Inc. is pleased to present this proposal to provide geotechnical engineering services for the above referenced project. This proposal summarizes our understanding of the project, presents our scope of services, and our fee and schedule for the services proposed.

Project Description

The project site is located along FAU Research Park Boulevard/SW 11th Way from SW 48th Street to SW 10th Street in Deerfield Beach, Florida. The roadway alignment is approximately 1.1 miles. We understand that the roadway improvements includes street widening from two to four lanes, sidewalks, buffered bicycle lanes, walking trails, drainage improvements, and lighting. We understand that new mast arms will also be installed.

Based on available aerial images, there appears to be overhead and underground utilities along SW 11th Way. The site is accessible to our truck-mounted drill rig, but maintenance of traffic (MOT) will be required to safely perform our field exploration.

Scope of Services

The purpose of our geotechnical study is to obtain information on the general subsurface conditions at the proposed project site. The subsurface materials encountered will then be evaluated with respect to the available project characteristics. In this regard, engineering assessments for the following items will be formulated:

The following services will be performed to achieve the above-outlined objectives:

- Request utility location services from Sunshine811.
- Obtain any permits needed to perform the requested services within the existing roadway right of way.
- Assumes the subsurface investigation will be performed within Broward County and City of Deerfield Beach Right-of-Way and time for Off-duty police officers, if needed, is not included.
- Perform 12 Standard Penetration Test (SPT) borings to a depth of 6 feet along the project alignment. Samples will be collected and Standard Penetration Test resistances will be measured continuously for the top ten feet and at approximate intervals of five feet thereafter. The SPT borings will be backfilled with grout and the roadway will be patched with cold patch asphalt.

- Perform two Standard Penetration Test (SPT) borings advanced to a depth of 25 feet near the vicinity of the mast are locations. Samples will be collected and Standard Penetration Test resistances will be measured continuously for the top ten feet and at approximate intervals of five feet thereafter. Upon completion, the boreholes will be backfilled with bentonite chips.
- Perform two pavement cores. A SPT boring extending to depths of approximately 2 feet will be performed at each core location. The SPT borings will be backfilled with soil cutting and the roadway will be patched with cold patch asphalt.
- Perform five SFWMD Usual Condition, Constant Head percolation/exfiltration tests to a depth of 15 feet below existing ground surface. A SPT boring extending to depths of approximately 20 feet will be performed at each percolation test location.
- Perform corrosion series testing for up to three soil samples.
- Collect two bulk samples for Limerock Bearing Ratio (LBR Testing).
- Visually classify and stratify soil samples in the laboratory using the Unified Soil Classification System and conduct a laboratory testing program.
- Report the results of the field exploration and engineering analysis. The results of the subsurface exploration will be presented in a written report signed and sealed by a professional engineer specializing in geotechnical engineering.

Schedule

We can perform the field work within three to four weeks from receiving the notice to proceed. ROW and MOT permits will be submitted and may take up to two to four weeks to be approved. The field work should require approximately four to five days to complete, access and weather permitting. Our signed and sealed report should be available two to three weeks from completion of laboratory testing.

Service Fee

We propose to complete our geotechnical engineering services for a fee of **\$29,588.40**. County and City permits and four days of MOT are included in the fee. If additional MOT is needed, an additional fee of \$1,700 per day will be invoiced. Please provide us with a written contract between our firms to serve as notice-to-proceed.

We appreciate the opportunity to support you on this project. If you have any questions with regard to this proposal, please do not hesitate to contact us at 813.944.3464.

Sincerely,

AREHNA Engineering, Inc.



Andy Tao, P.E.
Geotechnical Engineer



Jessica A McRory, P.E., LEED AP
President

Attachments: Fee Estimate



Attachment E – Subsurface Utility Locates

CRAIG A. SMITH & ASSOCIATES

PROPOSED SCOPE OF SERVICES AND PROPOSED FEE

FOR

PROFESSIONAL SURVEYING AND UTILITY LOCATING SERVICES

PROJECT NAME: FAU Research Park Drive Roadway Improvements

PROPOSAL NUMBER: 21-9999-4203

PROJECT DESCRIPTION: Map of Specific Purpose Survey

CLIENT: Kimley-Horn

Attention: Mr. Artem Strunnikov, P.E.

Address: 355 Alhambra Circle, suite 1400
Coral Gables, Florida 33134

Phone: 305-535-7719

E-Mail: Artem.strunnikov@kimley-horn.com

Craig A. Smith and Associates proposes to accomplish the utility locating and associated professional surveying services for the above project as outlined in this proposal. When the parties have agreed upon the details of the services to be provided, the fees to be paid for the services, and sign this proposal, this proposal will become a formal written agreement. **The project lies along FAU Research Park Boulevard between NE 48th Street and SW 10th Street in Deerfield Beach, Florida and runs for approximately 6,200 LF.**

Craig A. Smith & Associates (CAS) proposes to accomplish the services as follows:

—

S86 UTILITY TEST HOLES (SOFT DIGS)

Utility test holes (soft digs) will be performed, and reports provided for each with utility depth, elevation, size, material and type. CAS survey will locate each test hole and show on the base map created for Task S85 above. The test holes will be performed based on the direction of the project engineer and limited to Sixty-two (62) test holes per this request. Please note that this fee does not include fees for MOT or other requirements, if any. a minimum of five (5) test holes must be ordered at one time.

TEST HOLES (62) \$31,000.00
UNIT PRICE = \$500.00 PER HOLE

PAYMENT OF FEE

Craig A. Smith & Associates proposes to invoice monthly based upon percent completion. Payment is due within thirty days of receipt of the invoice. If CLIENT has not made payment within forty-five (45) days after receipt of the invoice, interest at the rate of 1½% per month will be added to the invoice. If no payment has been made forty-five (45) days after receipt of invoice, services will be suspended until Craig A. Smith & Associates has

CRAIG A. SMITH & ASSOCIATES

FAU Research Park Boulevard

December 28, 2021

21-0165-4203

-- PAGE 4 --

been paid in full. CLIENT agrees to pay Craig A. Smith & Associates all reasonable costs, charges, expenses and attorney fees expended or incurred to enforce any provisions hereof.

CRAIG A. SMITH & ASSOCIATES

Robert D. Keener

Robert D. Keener, PSM

Vice President

ACCEPTED BY:

Corporation Name or Person

Signature

Name of Authorized Representative

Title

Date



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-11

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the ranking and award of Request for Proposals #22-02-JW for Residential Environmental Services for Federal and State Funded Housing and Community Service Programs; authorizing execution of agreements with the two top ranked responsive and responsible firms, Gaudet Associates, Inc. and Airquest Environmental, Inc., for two year terms with one additional two-year renewal term; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

The City of Deerfield Beach receives funds from the U.S. Department of Housing and Urban Development ("HUD") and Florida Housing Finance Corporation ("FHFC") through the Community Development Block Grant ("CDBG"), Home Investment Partnership ("HOME"), and State Housing Initiatives Partnership ("SHIP") programs for housing and community development projects.

The City issued Request for Proposals #22-02-JW (the "RFP") to establish a pool of a maximum of two (2) qualified and experienced Environmental Inspectors who have successfully completed CDBG, HOME, and/or SHIP funded projects and/or completed work for similar projects outlined in the scope of work. Environmental Inspectors in the pool are not guaranteed any work under the program; instead, being in the pool of Environmental Inspectors provides the ability to be assigned inspections for specific rehabilitation projects funded by HUD and FHFC. The pool of Environmental Inspectors must be updated every two years through an RFP process by the Purchasing Division.

Current Activity

The Purchasing and Contract Administration Division recently issued the RFP for Environmental Inspectors for Federal and State Funded Housing and Community Services Programs. This formal competitive solicitation process complies with the City of Deerfield Beach procurement requirements.

The Evaluation Committee independently evaluated each proposal before the evaluation meeting. The Committee unanimously recommended awarding the contract to the two top ranked responsive and responsible environmental inspectors; Gaudet Associates, Inc. and AirQuest Environmental, Inc.

Attached are the following documents from the Purchasing Division.

- Purchasing Division memorandum recommendation
- Proposal Evaluation Summary
- Scope of Work

Recommendation

Staff recommends Commission approval of the Evaluation Committee's recommendation to award RFP #22-02-JW, Environmental Inspectors for Federal and State-funded Housing and Community Services Programs to Gaudet Associates, Inc., and AirQuest Environmental, Inc.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE RANKING AND AWARD OF REQUEST FOR PROPOSALS #22-02-JW FOR RESIDENTIAL ENVIRONMENTAL SERVICES FOR FEDERAL AND STATE FUNDED HOUSING AND COMMUNITY SERVICE PROGRAMS; AUTHORIZING EXECUTION OF AGREEMENTS WITH THE TWO TOP RANKED RESPONSIVE AND RESPONSIBLE FIRMS, GAUDET ASSOCIATES, INC. AND AIRQUEST ENVIRONMENTAL, INC., FOR TWO YEAR TERMS WITH ONE ADDITIONAL TWO-YEAR RENEWAL TERM; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, the City of Deerfield Beach (the “City”) desires to enter into agreements for residential environmental inspection services for federal and state funded housing and community service programs (the “Services”); and

WHEREAS, the City issued Request for Proposals No. 22-02-JW for Residential Environmental Services for Federal and State Funded Housing and Community Service Programs (the “RFP”); and

WHEREAS, the RFP was advertised in the legal notices section of the Sun Sentinel on October 25, 2021, and the notice was also sent to 187 prospective respondents via the e-Procurement Marketplace; and

WHEREAS, 24 firms viewed the RFP documents; and

WHEREAS, on November 22, 2021 at 1:00 p.m., the due date and time for the responses, the Purchasing and Contract Division (the “Division”) closed and unsealed the three proposals that were timely received, and reviewed the proposals to ensure they met the RFP requirements; and

WHEREAS, the evaluation committee independently reviewed and scored the responsive proposals in accordance with the weighted criteria stated in the RFP prior to the first evaluation committee meeting; and

WHEREAS, the evaluation meeting was held on December 6, 2021 to score the proposals based on the weighted criteria stated in the RFP; and

WHEREAS, following the rankings, the evaluation committee concluded and was unanimous in their decision to recommend award to the two top ranked firms: Gaudet Associates, Inc. (“Gaudet”) and AirQuest Environmental, Inc. (“AirQuest”); and

WHEREAS, the evaluation committee recommends that the City Commission approve the ranking and award of the RFP to the two top ranked firms Gaudet and AirQuest, and authorize execution of agreements with Gaudet and AirQuest for the provision of the Services on an as needed basis for two year terms with one additional two year renewal option.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the award of the RFP to Gaudet and AirQuest for the Services.

Section 3. The City Manager is hereby authorized to execute agreements with Gaudet and AirQuest for the Services, consistent with the terms of the RFP, together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK



Memorandum

TO: Donna DeFronzo, Director of Community Services
FROM: Jeremin Worlds, Senior Buyer
THRU Stephanie Tinsley, Chief Financial Officer
DATE: December 20, 2021
RE: **Residential Environmental Services for Federal and State Funded Housing and Community Service Programs, RFP #22-02-JW**

The Purchasing and Contract Administration Division recently issued a Request for Proposals (RFP) for Residential Environmental Services for Federal and State Funded Housing and Community Service Programs, RFP #22-02-JW. This formal competitive solicitation process complies with the City of Deerfield Beach procurement requirements. Details of the competitive solicitation process are as follows:

- The RFP was advertised in the legal notices section of the Sun-Sentinel on October 25, 2021.
- The notice was also sent to one hundred eight-seven (187) prospective Offeror's via the e-Procurement Marketplace.
- Twenty-Four (24) vendors viewed the documents of the RFP.
- On November 22, 2021, at 1:00 PM EST, the due date and time, the Purchasing and Contract Administration Division closed and unsealed three (3) proposals. The proposals were reviewed by the Purchasing and Contract Administration Division to ensure the proposals met the RFP requirements.
- Subsequently, each member of the evaluation committee appointed by the City Manager received their evaluation packages that consisted of: evaluation committee policies and procedures, Vendor Performance Reference Verification Survey Form and the evaluation sheets.
- Each evaluation committee member independently reviewed and scored three (3) responsive proposals according to the weighted criteria stated in the RFP prior to the public evaluation meeting held on Wednesday, December 8, 2021, at 10:00 AM EST in person (face-to-face) and virtually via Zoom.
- The Evaluation Committee consisted of: Jonathan Salas, Assistant Director, Community Services; Aneisha Nicholas, Manager, Housing and Community Affairs, Jeffrey Brazil, Construction Project Manager, Internal Logistics Management.
- Sheila Oliver could not participate on the evaluation committee, Jeffrey Brazil as the approved Evaluation Committee alternate, replaced Sheila Oliver.
- The proposals were evaluated based on the following weighted criteria:

Criteria	Weight
Methodology, Management Approach, Technique	3
Experience and History of Firm	3
Price	3
Experience in Working with Government Funded Project and Agencies	3
Availability of Personnel, Facilities and Equipment	2
Adherence to SDBE Requirements	1

- The proposals were scored and ranked (After Evaluation Committee Members Independent Review) as follows:

Ranking	Jonathan Salas	Aneisha Nicholas	Jeff Brazil	Total	Ranking
Gaudet Associates, Inc.	132 ^{/ 1}	139 ^{/ 1}	124 ^{/ 1}	3	1
AirQuest Environmental, Inc.	126 ^{/ 2}	128 ^{/ 2}	123 ^{/ 2}	6	2
Selek Engineering	97 ^{/ 3}	60 ^{/ 3}	93 ^{/ 3}	9	3

- All three (3) Proposers provided evidence for the Disadvantage Business Enterprise Program stated in the RFP documents, as per City Ordinance Section 38-130, which allows their scores to be adjusted upward by five (5%) percent. The adjusted evaluation scores are shown in the table below.
- There were no changes to the scores and ranking after Committee Members discussion of the proposals.

Ranking	Jonathan Salas	Aneisha Nicholas	Jeff Brazil	Total	Ranking
Gaudet Associates, Inc.	138.6 ^{/ 1}	145.95 ^{/ 1}	130.2 ^{/ 1}	3	1
AirQuest Environmental, Inc.	132.3 ^{/ 2}	134.4 ^{/ 2}	129.15 ^{/ 2}	6	2
Selek Engineering	101.85 ^{/ 3}	63 ^{/ 3}	97.65 ^{/ 3}	9	3

- A motion was made by Jonathan Sales to recommend the top two (2) ranked Proposers Gaudet Associates, Inc., and AirQuest Environmental, Inc., to the City Commission for approval. The motion was seconded by Aneisha Nicholas. The evaluation committee was unanimous in their decision.
- Reference checks were conducted on Gaudet Associates, Inc, and AirQuest Environmental, Inc, and revealed positive ratings.
- The contract term shall be two (2) years with the option to renew for one (1) additional two (2) year period.
- Documentation related to this solicitation may be obtained by emailing Sandra Francis at sfrancis@deerfield-beach.com. You may contact the Purchasing and Contract Administration Division at 954-480-4381 with any questions.

In summary, the Evaluation Committee is recommending to the City Commission, to approve the top two (2) ranked Proposers Gaudet Associates Inc., and AirQuest Environmental, Inc.

Please use this memorandum and all attachments as backup to the City Manager for the February 15th, 2022, City Commission Meeting.

Att: Tabulation Sheets, Tab Summary, Bid Summary, Scope of Work

c: Jonathan Salas, Assistant Director, Community Services

Event Number	22-02-JW
Event Title	Residential Environmental Services for Federal and State Funded Housing and Community Service
Event Description	The purpose of this RFP is to contract with multiple firms for Residential Environmental Services firms to determine the extent of environmental contaminants in residential homes and to prepare appropriate remediation plans for each project. Services include inspections for lead, asbestos, mold, and other environmental contaminants. The City will accept proposals from licensed professionals with required expertise to provide services requested, including but not limited to, mold inspectors, lead inspectors, asbestos inspectors, and other environmental specialists.
Event Type	RFP
Issue Date	10/25/2021 11:16:37 AM (ET)
Close Date	11/22/2021 01:00:00 PM (ET)

Organization	City of Deerfield Beach
Workgroup	Purchasing Dept.
Event Owner	Jeremin Worlds
Email	jworlds@deerfield-
Phone	(954) 480-4415
Fax	(954) 480-4388

Responding Supplier	City	State	Response Submitted	Lines Responded	Response Total
Gaudet Associates, Inc.	Jupiter	FL	11/19/2021 09:36:29 AM (ET)	6	\$3,600.00
AirQuest Environmental	Fort Lauderdale	FL	11/22/2021 11:53:05 AM (ET)	6	\$4,450.00
Selek Engineering	Pompano Beach	FL	11/22/2021 04:35:15 AM (ET)	6	\$8,025.00

Please note: Lines Responded and Response Total only includes responses to specification. No alternate response data is included.

1	Asbestos Survey: Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 3(a-f).						
	Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes
	Gaudet Associates, Inc.	1	ea		\$600.00	\$600.00	
	AirQuest Environmental Inc.	1	ea		\$825.00	\$825.00	
	Selek Engineering	1	ea		\$1,675.00	\$1,675.00	

2	Lead-Based Paint Survey: Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 3(a-f).						
	Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes
	Gaudet Associates, Inc.	1	ea		\$450.00	\$450.00	
	AirQuest Environmental Inc.	1	ea		\$675.00	\$675.00	
	Selek Engineering	1	ea		\$1,675.00	\$1,675.00	

3	Mold Survey: Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 3(a-f).						
	Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes
	Gaudet Associates, Inc.	1	ea		\$600.00	\$600.00	
	Selek Engineering	1	ea		\$800.00	\$800.00	
	AirQuest Environmental Inc.	1	ea		\$875.00	\$875.00	

4	Asbestos Abatement Visual Clearance and Air Sampling: Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 3(a-f).						
	Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes
	Gaudet Associates, Inc.	1	ea		\$600.00	\$600.00	
	AirQuest Environmental Inc.	1	ea		\$600.00	\$600.00	
	Selek Engineering	1	ea		\$1,675.00	\$1,675.00	

5	Mold Post Remediation Visual and Air Sampling: Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 3(a-f).						
	Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes
	Gaudet Associates, Inc.	1	ea		\$600.00	\$600.00	
	AirQuest Environmental Inc.	1	ea		\$725.00	\$725.00	
	Selek Engineering	1	ea		\$1,300.00	\$1,300.00	

6	Lead Post Abatement Visual Clearance and Wipe/Soil Sampling: Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 3(a-f).						
	Supplier	QTY	UOM	Estimated	Price	Extended	Supplier Notes
	Gaudet Associates, Inc.	1	ea		\$750.00	\$750.00	
	AirQuest Environmental Inc.	1	ea		\$750.00	\$750.00	
	Selek Engineering	1	ea		\$900.00	\$900.00	

EXHIBIT A – SCOPE OF WORK

1. General

- a. The City of Deerfield Beach is a South Florida coastal community of 78,000 residents located in Northern Broward County. The City is midway between Fort Lauderdale and West Palm Beach and is neighbored by Boca Raton, Coral Springs and Pompano Beach. This 16.3 square mile community and is home to a diverse residential, commercial and industrial population.
- b. The City of Deerfield Beach is receiving funds from the U.S. Department of Housing and Urban Development (HUD) and the Florida Housing Finance Corporation (FHFC) through the Community Development Block Grant (CDBG) Program, HOME Investment Partnerships (HOME) Program, and State Housing Initiatives Partnership (SHIP) Program for a minor home repair program and Hurricane Loss Mitigation Program (HLMP) and may receive similar types of funds to carry out similar activities.

2. Purpose

The purpose of this RFP is to contract with multiple firms for residential environmental inspection to determine the extent of environmental contaminants in residential homes and to prepare appropriate remediation plans for each project. Services include inspections for lead, asbestos, mold, and other environmental contaminants. The City will accept proposals from licensed professionals with required expertise to provide services requested, including but not limited to, mold inspectors, lead inspectors, asbestos inspectors, and other environmental specialists.

3. Scope of Services

The required environmental inspection services include but are not necessarily limited to the following:

- a. Conduct a preliminary inspection of each structure and determine presence of environmental contaminants in each building based upon building standards provided by the City of Deerfield Beach and the U.S. Department of Housing and Urban Development and other environmental regulations as applicable to the inspection requested.
- b. Identify what steps are to be taken to mitigate any problem(s) detected.
- c. Submit inspection report and color photos of items needing repair to the City's Program Administrator.
- d. Conduct follow up inspections as necessary to determine mitigation results.
- e. Submit final inspection report and photos, as necessary. Report and photos must correspond with initial inspection report and photos. Two sets of printed color photos are required to be submitted with each inspection report.
- f. Submit invoice for payment, per program procedures.
- g. Inspectors must utilize Neighborly Software

4. Section 3 Compliance

The purpose of Section 3 is to ensure that the employment and other economic opportunities generated by HUD assistance for HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

City of Deerfield Beach
Residential Environmental Services for Federal and State Funded Housing and
Community Service Programs, RFP #22-02-JW

5. City Ordinance Section 38-133

For the purposes of complying with Section 3 of the Housing and Urban Development Act of 1968, as amended (12 USC 1701(u)), (hereinafter referred to as section 38-1353), the City wishes to adopt procedures to implement Section 3 in compliance with 24 CFR, Part 135. The City of Deerfield Beach has adopted a Section 3 plan, Attachment "E", for said implementation which shall be applicable to all HUD finance assisted projects, such as CDBG or NSP1 or such other programs where federal law requires application of Section 3. In such cases, the goals and objectives and any necessary preference or requirements determined necessary by the City to comply with Section 3 and 24 CFR, Part 135, shall be included in any bid specifications and contract awarded based on said specifications. The purpose of this provision is to authorize the undertaking of all necessary measures to assure compliance with Section 3 bidding and contracting process where Section 3 is applicable under federal law.

6. Supplemental Federal Provisions

The work to be performed under this contract is subject to the General and Construction Federal Provisions contained in Section VII – Supplemental Federal Provisions. When any conditions of the RFP are in variance or conflict with the Supplemental Federal Provisions, the Supplemental Federal Provisions shall prevail.

7. Poor Performance

- a. The City of Deerfield Beach reserves the right to remove any firms from either Pool, for any reason when the City determines it is in the best interest of its residents and citizens including, but not limited to:
 - i. Excessive complaints.
 - ii. Failure to perform as required.
 - iii. Failure to provide necessary documentation
 - iv. Unethical business practices.
 - v. Expiration or revocation of any required license or certification.
 - vi. Falsification of documents.
 - vii. Failure to pay fees, if required.
- b. Should a firm be removed from the Pool during the term of the contract, the City reserves the right to fill the vacancy with the next ranked firm on the Final Ranking that resulted from the evaluation process. The firm filling the vacancy shall only be contracted with for the remainder of the contract term.

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City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-10

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving the ranking and award of Request for Proposals #22-03-JW for Residential Inspection and Cost Estimating Services for Federal and State Funded Housing and Community Service Programs; authorizing execution of agreements with the three ranked responsive and responsible firms, TSC Associates, Inc., Housing and Assistive Technology, Inc., and Gold Tree Development Group, LLC, for two year terms with one additional two-year renewal term; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

The City of Deerfield Beach receives funds from the U.S. Department of Housing and Urban Development ("HUD") and Florida Housing Finance Corporation ("FHFC") through the Community Development Block Grant ("CDBG"), Home Investment Partnership ("HOME"), and State Housing Initiatives Partnership ("SHIP") programs for housing and community development projects.

The purpose of Request for Proposals #22-03-JW (the "RFP") is to establish a pool of a maximum of three qualified and experienced Residential Inspectors who have successfully completed CDBG, HOME, and/or SHIP funded projects and/or completed work for similar projects outlined in the scope of work. Residential Inspectors in the pool are not guaranteed any work under the program; instead, being in the pool of Residential Inspectors provides the ability to be assigned inspections for specific rehabilitation projects funded by HUD and FHFC. The pool of Residential Inspectors must be updated every two years through an RFP process by the Purchasing Division.

Current Activity

The Purchasing and Contract Administration Division recently issued the RFP for Residential Inspectors for Federal and State Funded Housing and Community Services Programs. This formal competitive solicitation process complies with the City of Deerfield Beach procurement requirements.

The Evaluation Committee independently evaluated each proposal before the evaluation meeting. The committee unanimously recommended awarding the contract to the three responsive and responsible residential inspectors; TCS Associates, Inc., Housing and Assistive Technology, Inc., and Gold Tree Development Group LLC.

Attached are the following documents from the Purchasing Division.

- Purchasing Division memorandum recommendation
- Proposal Evaluation Summary
- Scope of Work

Recommendation

Staff recommends Commission approval of the Evaluation Committee's recommendation to award RFP #22-03-JW, Residential Inspectors for Federal and State-funded Housing and Community Services Programs and contracts to TCS Associates, Inc., Housing and Assistive Technology, Inc., and Gold Tree Development Group LLC.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE RANKING AND AWARD OF REQUEST FOR PROPOSALS #22-03-JW FOR RESIDENTIAL INSPECTION AND COST ESTIMATING SERVICES FOR FEDERAL AND STATE FUNDED HOUSING AND COMMUNITY SERVICE PROGRAMS; AUTHORIZING EXECUTION OF AGREEMENTS WITH THE THREE RANKED RESPONSIVE AND RESPONSIBLE FIRMS, TSC ASSOCIATES, INC., HOUSING AND ASSISTIVE TECHNOLOGY, INC., AND GOLD TREE DEVELOPMENT GROUP, LLC, FOR TWO YEAR TERMS WITH ONE ADDITIONAL TWO-YEAR RENEWAL TERM; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, the City of Deerfield Beach (the “City”) desires to enter into agreements for residential inspection and cost estimating services for federal and state funded housing and community service programs on an as needed basis (the “Services”); and

WHEREAS, the City issued Request for Proposals No. 22-03-JW for Residential Inspection and Cost Estimating Services for Federal and State Funded Housing and Community Service Programs (the “RFP”); and

WHEREAS, the RFP was advertised in the legal notices section of the Sun Sentinel on November 5, 2021, and the notice was also sent to 67 prospective respondents via the e-Procurement Marketplace; and

WHEREAS, 20 firms viewed the RFP documents; and

WHEREAS, on December 2, 2021 at 1:00 p.m., the due date and time for the responses, the Purchasing and Contract Division (the “Division”) closed and unsealed the three proposals that were timely received, and reviewed the proposals to ensure they met the RFP requirements; and

WHEREAS, the evaluation committee independently reviewed and scored the responsive proposals in accordance with the weighted criteria stated in the RFP prior to the first evaluation committee meeting; and

WHEREAS, the evaluation meeting was held on December 17, 2021 to score the proposals based on the weighted criteria stated in the RFP; and

WHEREAS, following the rankings, the evaluation committee concluded and was unanimous in their decision to recommend award to the three ranked firms: TSC Associates, Inc. (“TSC”), Housing and Assistive Technology, Inc. (“HAT”), and Gold Tree Development Group, LLC (“Gold Tree”); and

WHEREAS, the evaluation committee recommends that the City Commission approve the ranking and award of the RFP to the three ranked firms TSC, HAT, and Gold Tree, and authorize execution of agreements with TSC, HAT, and Gold Tree for the provision of the Services on an as needed basis for two year terms with one additional two year renewal option.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the award of the RFP to TSC, HAT, and Gold Tree for the Services.

Section 3. The City Manager is hereby authorized to execute agreements with TSC, HAT, and Gold Tree for the Services on an as needed basis, consistent with the terms of the RFP, together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK



Memorandum

TO: Donna DeFronzo, Director of Community Services
FROM: Jeremin Worlds, Senior Buyer
THRU Stephanie Tinsley, Chief Financial Officer
DATE: January 4, 2022
RE: **Residential Inspection and Cost Estimating Services for Federal and State Funded Housing and Community Service Programs, RFP #22-03-JW**

The Purchasing and Contract Administration Division recently issued a Request for Proposals (RFP) for Residential Inspection and Cost Estimating Services for Federal and State Funded Housing and Community Service Programs, RFP #22-03-JW. This formal competitive solicitation process complies with the City of Deerfield Beach procurement requirements. Details of the competitive solicitation process are as follows:

- The RFP was advertised in the legal notices section of the Sun-Sentinel on November 5, 2021.
- The notice was also sent to sixty-seven (67) prospective Offeror's via the e-Procurement Marketplace.
- Twenty (20) vendors viewed the documents of the RFP.
- On December 2, 2021, at 1:00 PM EST, the due date and time, the Purchasing and Contract Administration Division closed and unsealed three (3) proposals. The proposals were reviewed by the Purchasing and Contract Administration Division to ensure the proposals met the RFP requirements.
- Subsequently, each member of the evaluation committee appointed by the City Manager received their evaluation packages that consisted of: evaluation committee policies and procedures, Vendor Performance Reference Verification Survey Form and the evaluation sheets.
- Each evaluation committee member independently reviewed and scored three (3) responsive proposals according to the weighted criteria stated in the RFP prior to the public evaluation meeting held on Friday, December 17, 2021, at 10:00 AM EST in person (face-to-face) and virtually via Zoom.
- The Evaluation Committee consisted of: Jonathan Salas, Assistant Director, Community Services; Aneisha Nicholas, Manager, Housing and Community Affairs, Sheila Oliver, Building Official, Building Inspection Services.
- The proposals were evaluated based on the following weighted criteria:

Criteria	Weight
Methodology, Management Approach, Technique	3
Experience and History of Firm	3

Price	3
Experience in Working with Government Funded Project and Agencies	3
Availability of Personnel, Facilities and Equipment	2
Adherence to SDBE Requirements	1

- The proposals were scored and ranked (After Evaluation Committee Members Independent Review) as follows:

Ranking	Jonathan Salas	Aneisha Nicholas	Sheila Oliver	Total	Ranking
TSC Associates, Inc.	133 ^{/1}	134 ^{/2}	96 ^{/2}	5	1
Housing and Assistive Technology, Inc.	124 ^{/3}	137 ^{/1}	98 ^{/1}	5	1
Gold Tree Development Group LLC	126 ^{/2}	112 ^{/3}	81 ^{/3}	8	3

- Two (2) Proposers provided evidence for the Disadvantage Business Enterprise Program stated in the RFP documents, as per City Ordinance Section 38-130, which allows their scores to be adjusted upward by five (5%) percent. The adjusted evaluation scores are shown in the table below.
- There were no changes to the scores and ranking after Committee Members discussion of the proposals.

Ranking	Jonathan Salas	Aneisha Nicholas	Sheila Oliver	Total	Ranking
TSC Associates, Inc.	139.65 ^{/1}	140.7 ^{/1}	100.8 ^{/1}	3	1
Housing and Assistive Technology, Inc.	124 ^{/3}	137 ^{/2}	98 ^{/2}	7	2
Gold Tree Development Group LLC	132.3 ^{/2}	117.6 ^{/3}	86.05 ^{/3}	8	3

- A motion was made by Jonathan Sales to recommend the all three (3) ranked Proposers TSC Associates, Inc., Housing and Assistive Technology, Inc., and Gold Tree Development Group LLC to the City Commission for approval. The motion was seconded by Aneisha Nicholas. The evaluation committee was unanimous in their decision.
- Reference checks were conducted on TSC Associates, Inc., Housing and Assistive Technology, Inc., and Gold Tree Development Group LLC and revealed positive ratings.
- The contract term shall be two (2) years with the option to renew for one (1) additional two (2) year period.
- Documentation related to this solicitation may be obtained by emailing Sandra Francis at sfrancis@deerfield-beach.com. You may contact the Purchasing and Contract Administration Division at 954-480-4381 with any questions.

In summary, the Evaluation Committee is recommending to the City Commission, to approve the all three (3) ranked Proposers TSC Associates, Inc., Housing A, and Gold Tree Development Group LLC.

Please use this memorandum and all attachments as backup to the City Manager for the February 15th, 2022, City Commission Meeting.

Att: Tabulation Sheets, Tab Summary, Scope of Work

c: Jonathan Salas, Assistant Director, Community Services

Event Number	22-03-JW
Event Title	Residential Inspection and Cost Estimating Services for Federal and State Funded Housing and Community Service Programs
Event Description	The purpose of this RFP is to contract with multiple residential home inspection firms to determine the extent of rehabilitation needed in residential homes and to estimate the cost for each repair project as outlined in the RFP document.
Event Type	RFP
Issue Date	11/5/2021 11:00:03 AM (ET)
Close Date	12/2/2021 01:00:00 PM (ET)

Organization	City of Deerfield
Workgroup	Purchasing Dept.
Event Owner	Jeremin Worlds jworlds@deerfield-beach.com
Email	
Phone	(954) 480-4415
Fax	(954) 480-4388

Responding Supplier	City	State	Response Submitted	Lines Responded	Response Total
Gold Tree Development Group LLC	MIAMI	FL	12/2/2021 12:30:30 PM (ET)	1	\$1,991.00
Housing A	Miami	FL	11/28/2021 03:38:55 PM (ET)	1	\$2,000.00
TSC Associates, Inc	Fort Lauderdale	FL	11/30/2021 08:40:55 PM (ET)	1	\$2,500.00

Please note: Lines Responded and Response Total only includes responses to specification. No alternate response data is included.

				Gold Tree Development Group LLC		Housing A		TSC Associates, Inc	
				Total Price	\$1,991.00	Total Price	\$2,000.00	Total Price	\$2,500.00
Line #	Description	QTY	UOM	Unit	Extended	Unit	Extended	Unit	Extended
1	Price per services for each housing unit as outlined in Section VI - Scope of Work, Item 4(a-m).	1	Lump Sum	<u>\$1,991.00</u>	\$1,991.00	\$2,000.00	\$2,000.00	\$2,500.00	\$2,500.00

SCOPE OF WORK

1. Background

- a. The City of Deerfield Beach is a South Florida coastal community of over 86,859 residents located in northern Broward County. The City is midway between Fort Lauderdale and West Palm Beach and is neighbored by Boca Raton, Coral Springs and Pompano Beach. This 16.3 square mile community and is home to a diverse residential, commercial and industrial population.
- b. The City of Deerfield Beach is receiving funds from the U.S. Department of Housing and Urban Development (HUD) and the Florida Housing Finance Corporation (FHFC) through the Community Development Block Grant (CDBG) Program, HOME Investment Partnerships (HOME) Program, State Housing Initiatives Partnership (SHIP) Program and Hurricane Loss Mitigation Program (HLMP) for a homeowner rehabilitation program and may receive similar types of funds to carry out similar activities.

2. Purpose

- a. The purpose of this RFP is to contract with multiple residential home inspection firms to determine the extent of rehabilitation needed in residential homes and to estimate the cost for each repair project.
- b. The firms selected by the City are to provide inspection and cost estimating services for general repairs, including correction of code violations, abatement of health and safety issues, repair/replacement of electrical and mechanical systems, weatherization, and improvement of the general conditions of a structure.
- c. The City of Deerfield Beach is receiving funds from the U.S. Department of Housing and Urban Development (HUD) and the Florida Housing Finance Corporation (FHFC) through the Community Development Block Grant (CDBG) Program, HOME Investment Partnerships (HOME) Program, State Housing Initiatives Partnership (SHIP) Program and Hurricane Loss Mitigation Program (HLMP) for a homeowner rehabilitation program and may receive similar types of funds to carry out similar activities.

3. Firm Qualifications

- a. Minimum of five (5) years' experience in building construction trades, including but not limited to: construction supervisory positions, trade instructor, time served as a municipal code inspector or rehabilitation inspector.
- b. The vendor shall possess at the time of submittal a State of Florida Home Inspectors License and shall maintain an active status of the license throughout the term of the contract.

4. General

The required home inspection and cost estimating services include but are not necessarily limited to the following:

- a. Conduct and complete a checklist to document a preliminary inspection of each structure and determine deficiencies in each building based upon building standards provided by the City of Deerfield Beach and the U.S. Housing and Urban Development Department. Initial property inspection must be conducted using the City approved inspection checklist/report format.

City of Deerfield Beach

**Residential Inspection and Cost Estimating Services for Federal and State Funded
Housing and Community Service Programs, RFP #22-03-JW**

- b. Submit inspection checklist and color photos of items needing repair to the City's Program Administrator.
- c. Prepare scope of work ready for bid purposes and develop a cost estimate on each building to be rehabilitated. Scope of work shall accurately reflect repairs needed. Two sets of printed color photos are required to be submitted with each inspection report/work specifications. Photos shall be clearly numbered to match work specifications.
- d. Prepare a scope of work, which includes a work write-up from licensed asbestos and/or lead based paint inspectors (if needed).
- e. Identify what steps are to be taken to mitigate any problem(s) detected.
- f. Conduct pre-bid meeting, which includes inviting contractors on the City's pre-qualified list of General Contractors for Home Repair Projects to participate in the bid process, collecting pre-bid sign in sheet at property, answering questions at the pre-bid, and issuing addenda as required as a result of the pre-bid meeting.
- g. Perform in-progress inspections as requested by the City's Program Administrator. Submit in-progress report to City's Program Administrator.
- h. Obtain City's and owner's approval prior to project going out to bid.
- i. Review and approve/disapprove change orders from contractors.
- j. Assist with homeowner and contractor conflict resolution regarding repairs.
- k. Conduct follow-up inspections for properties that do not pass initial final inspection. Submit punch list for contractor's review.
- l. Submit final inspection report and photos. Report and photos must correspond with initial inspection report and photos. Two sets of printed color photos are required to be submitted with each inspection report/work specifications.
- m. Submit invoice for payment, per program procedures.
- n. Must utilize Neighborly Software
- o. Inspector must conduct mid-point inspections

5. Poor Performance

- a. The City of Deerfield Beach reserves the right to remove any firms for any reason when the City determines it is in the best interest of its residents and citizens including, but not limited to:
 - i. Excessive complaints.
 - ii. Failure to perform as required.
 - iii. Failure to provide necessary documentation
 - iv. Unethical business practices.
 - v. Expiration or revocation of any required license or certification.
 - vi. Falsification of documents.
 - vii. Failure to pay fees, if required.

City of Deerfield Beach

**Residential Inspection and Cost Estimating Services for Federal and State Funded
Housing and Community Service Programs, RFP #22-03-JW**

- b. Should a firm be removed during the term of the contract, the City reserves the right to fill the vacancy with the next ranked firm on the Final Ranking that resulted from the evaluation process. The firm filling the vacancy shall only be contracted with for the remainder of the contract term.

6. Additional Services Not Addressed in the Scope of Services

- a. Any additional work required, will be considered on a case by case basis and be dependent on the needs of the individual project. Rates and fees for such services shall be mutually negotiated by both parties prior to commencement of work.
- b. Permits will be reimbursed based on the actual invoiced cost. The invoice copy is required for reimbursement.

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City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-18

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving Contract #JCV21-06-2022 with the Areawide Council on Aging of Broward County, Inc. for the Telephone Reassurance Program in an amount not to exceed \$11,762.25; authorizing execution of the contract; providing for implementation and an effective date. (Fiscal Impact: Increase in Funding)

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: Potential Revenue: \$11,762.25

Account Name: Senior Citizen Federal Grant (Health & Social Services)

Account Number: 001-1703-331-6999

Background/History

The Center for Active Aging (the "Center") provides supportive services for seniors in the community to improve their quality of life and promote independence and engagement. Due to the COVID-19 pandemic, telephone reassurance has been provided for seniors while they are at home to stay connected and to determine specific needs for assistance. Through the telephone reassurance program, the Center communicates with designated clients by telephone to determine their safety and to provide psychological reassurance, or to implement special or emergency assistance. Eligible participants are those seniors who are homebound, live alone, or are practicing social distancing/self-isolation due to COVID-19.

Current Activity

Although the Center for Active Aging is operating with onsite services and programs, the ongoing effects of the COVID-19 pandemic have limited the amount of seniors that can participate onsite; therefore, ongoing telephone reassurance services are necessary for their wellness and connection.

Recommendation

Approval.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING CONTRACT #JCV21-06-2022 WITH THE AREAWIDE COUNCIL ON AGING OF BROWARD COUNTY, INC. FOR THE TELEPHONE REASSURANCE PROGRAM IN AN AMOUNT NOT TO EXCEED \$11,762.25; AUTHORIZING EXECUTION OF THE CONTRACT; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, the City wishes to contract with the Areawide Council on Aging of Broward County, Inc. (the “Council”) for the Council’s funding of COVID-19 telephone reassurance program services pursuant to Contract #JCV21-06-2022 (the “Contract”); and

WHEREAS, through the COVID-19 telephone reassurance program, staff communicates with designated clients by telephone to determine their safety and to provide psychological reassurance, or to implement special or emergency assistance (the “Program”); and

WHEREAS, the contract term for the Contract with the Council will be effective upon full execution through September 30, 2022, and covers any goods or services provided on or after February 1, 2021; and

WHEREAS, the City Commission believes that it is in the best interest of the City to approve and authorize execution of Contract # JCV21-06-2022 with the Council in an amount not to exceed \$11,762.25 for the Program.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the Contract with the Council, attached as Exhibit “A,” for the Program in an amount not to exceed \$11,762.25.

Section 3. The Mayor is hereby authorized to execute the Contract with the Council, attached as Exhibit “A,” together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to do all things necessary and expedient to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

THIS CONTRACT is entered into between the Areawide Council on Aging of Broward County, Inc., hereinafter referred to as the "Council," and **City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging** hereinafter referred to as the "Contractor" who are collectively referred to as the "Parties." This Contract is subject to all provisions contained in the Master Contract executed between the Council and the Contractor, and its successor, incorporated herein by reference.

WITNESSETH THAT:

WHEREAS, the Council has determined that it is in need of certain services as described herein; and **WHEREAS**, the Contractor has demonstrated that it has the requisite expertise and ability to faithfully perform such services as an Independent Contractor for the Council.

NOW, THEREFORE, in consideration of the services to be performed and payments to be made, together with the mutual covenants and conditions hereinafter set forth, the Parties agree as follows:

1. Purpose of Contract

The purpose of this Contract is to provide services in accordance with the terms and conditions specified in this Contract, including all attachments, forms, exhibits, and references incorporated, which constitute the contract document.

2. Incorporation of Documents within the Contract

This Contract will incorporate attachments, proposal(s), service provider application(s), grant contracts, relevant State of Florida, Department of Elder Affairs' handbooks, manuals or desk books and Master Contract, as an integral part of the contract, except to the extent that the contract explicitly provides to the contrary. In the event of conflict in language among any of the documents referenced above, the specific provisions and requirements of the contract document(s) shall prevail over inconsistent provisions in the proposal(s) or other general materials not specific to this Contract document and identified attachments.

3. Term of Contract

This Contract shall begin on **February 1, 2021**, or on the date on which this Contract has been signed by the last party required to sign it, whichever is later. It will end at midnight, Eastern Standard Time on **September 30, 2022**.

Through the Coronavirus Response and Relief Supplemental Appropriations Act, 2021 (as outlined in the Consolidated Appropriations Act, 2021), this program provides for retroactive payments to state, local, and tribal governments navigating the impact of the COVID-19 outbreak and, therefore, these funds may be used to reimburse the Contractor for any goods and services provided on or after **February 1, 2021**.

4. Contract Amount

The Council agrees to pay for contracted services according to the terms and conditions of this Contract in an amount not to exceed **\$11,762.25**, subject to the availability of funds. Any costs or services paid for under any other contract or from any other source are not eligible for payment under this Contract.

5. Background Screening

The Contractor shall ensure that the requirements of Section 430.0402 and Chapter 435, F.S., as amended, are met regarding background screening for all persons who meet the definition of a direct

service provider and who are not exempt from the State of Florida, Department of Elder Affairs' level 2 background screening pursuant to Section 430.0402(2)-(3), F.S. The Contractor must also comply with any applicable rules promulgated by the State of Florida, Department of Elder Affairs and the Agency for Health Care Administration regarding implementation of Section 430.0402 and Chapter 435, F.S.

To demonstrate compliance with this provision, Contractor shall submit ATTACHMENT IX, Background Screening Affidavit of Compliance annually, by January 5th. Further information concerning the procedures for background screening is found at <http://elderaffairs.state.fl.us/doea/backgroundscreening.php>.

6. Nondiscrimination-Civil Rights Compliance

- 6.1** The Contractor shall execute assurances as stated in the Assurances-Non-Construction Programs, ATTACHMENT III of the Master Contract, that it will not discriminate against any person in the provision of services or benefits under this Contract or in employment because of age, race, religion, color, disability, national origin, marital status or sex in compliance with state and federal law and regulations. The Contractor further assures that all with whom it arranges to provide services or benefits in connection with any of its programs and activities are not discriminating against clients or employees because of age, race, religion, color, disability, national origin, marital status or sex.
- 6.2** During the term of this Contract, the Contractor shall complete and retain on file a timely, complete, and accurate Civil Rights Compliance Checklist, ATTACHMENT VIII.
- 6.3** The Contractor shall establish procedures pursuant to federal law to handle complaints of discrimination involving services or benefits through this Contract. These procedures will include notifying clients, employees, and participants of the right to file a complaint with the appropriate federal or state entity.
- 6.4** If this Contract contains federal funds, these assurances are a condition of continued receipt of or benefit from federal financial assistance, and are binding upon the Contractor, its successors, transferees, and assignees for the period during which such assistance is provided. The Contractor further assures that all Subcontractors, Vendors, or others with whom it arranges to provide services or benefits to participants or employees in connection with any of its programs and activities are not discriminating against those participants or employees in violation of the above statutes, regulations, guidelines, and standards. In the event of failure to comply, the Contractor understands that the Council may, at its discretion, seek a court order requiring compliance with the terms of this assurance or seek other appropriate judicial or administrative relief, including but not limited to, termination of and denial of further assistance.

7. Provision of Services:

The Contractor shall provide services in the manner described in ATTACHMENT I of this Contract.

8. Official Payee and Representatives (Names, Addresses, and Telephone Numbers):

a. The Contractor name, as shown on page 1 of this Contract, and mailing address of the official payee to whom the payment shall be made is:	City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging 227 NW 2nd Street Deerfield Beach, FL 33441
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b.	The name of the contact person and street address where financial and administrative records are maintained is:	Donna DeFronzo, Director of Senior Services City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging 227 NW 2nd Street Deerfield Beach, FL 33441
c.	The name, address, and telephone number of the representative of the Contractor responsible for the administration of the program under this Contract is:	Donna DeFronzo, Director of Senior Services City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging 227 NW 2nd Street Deerfield Beach, FL 33441 954-480-4449
d.	The section and location within the Council where the Request for Payment and Receipt and Expenditure forms are to be mailed or e-mailed is:	Areawide Council on Aging of Broward County, Inc. 5300 Hiatus Road, Sunrise, FL 33351 fiscal@adrcbroward.org
e.	The name, address, and telephone number of the Council's Contract Manager for this Contract is:	Ingrid Schenk Areawide Council on Aging of Broward County, Inc. 5300 Hiatus Road, Sunrise, FL 33351 (954) 745-9567
Upon change of representatives (names, address, telephone numbers) by either party, notice shall be provided in writing to the other party and the notification attached to the originals of this Contract.		

9. All Terms and Conditions Included:

This Contract and its Attachments, I - IX and any exhibits referenced in said attachments, together with any documents incorporated by reference, contain all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained herein, and this Contract shall supersede all previous communications, representations, or agreements, either written or verbal between the Parties. By signing this Contract, the Parties agree that they have read and agree to the entire Contract.

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IN WITNESS THEREOF, the Parties hereto have caused this 40-page Contract to be executed by their undersigned officials as duly authorized.

CONTRACTOR:

**City of Deerfield Beach, Florida / Northeast
Focal Point Senior Center dba Department of
Active Aging**

**Areawide Council on Aging of
Broward County, Inc.**

BOARD PRESIDENT OR AUTHORIZED
DESIGNEE

SIGNED BY

SIGNED BY

NAME

PAULINE GRANT
NAME

TITLE

PRESIDENT
TITLE

DATE

DATE

FEDERAL ID NUMBER: 59-6000305

FISCAL YEAR-END DATE: September 30

ATTACHMENT I

COVID-19 VACCINE SUPPORT PROGRAM STATEMENT OF WORK

SECTION I: SERVICES TO BE PROVIDED

1.1 DEFINITIONS OF TERMS AND ACRONYMS

1.1.1 CONTRACT ACRONYMS

AAA – Area Agency on Aging
ACL – Administration on Community Living
ADL – Activities of Daily Living
AIRS – Alliance of Information & Referral Systems
AOA – Administration on Aging
APCL – Assessed Priority Consumer List
APS – Adult Protective Services
CIRTS – Client Information and Registration Tracking System
DBPR – Florida Department of Business and Professional Regulations
DOEA – State of Florida, Department of Elder Affairs
DOH – Department of Health
DRI – Dietary Reference Intake (DRI)
I&R – Information and Referral
IADL – Instrumental Activities of Daily Living
MDD – Major Disaster Declaration
NCOA – National Council on Aging
OAA – Older Americans Act
PSA – Planning and Service Area
SMMC LTC – Statewide Medicaid Managed Care Long-Term Care
USDA – United States Department of Agriculture
USDHHS – United States Department of Health and Human Services

1.1.2 PROGRAM SPECIFIC TERMS

Adult Child with a Disability: A child who is age 18 or older and is financially dependent on an older individual who is a parent of the child and has a disability.

Area Plan: A plan developed by the AAA outlining a comprehensive and coordinated service delivery system in its PSA in accordance with Section 306 of the OAA [42 United States Code (U.S.C.) § 3026] and Department instructions.

Area Plan Update: A revision to the Area Plan wherein the AAA enters OAA specific data in CIRTS. An update may also include other revisions to the Area Plan as instructed by the Department.

Child: An individual who is not more than eighteen (18) years of age or an individual with a disability.

Disaster Relief Services: ACL considers disaster relief services for older individuals to be any allowable OAA services during the period covered by Florida's MDD that are provided to eligible older individuals or family caregivers as defined under the OAA.

Family Caregiver: An adult family member, or another individual, who is an informal provider of in-home and community care to an older individual.

Frail: When an older individual is (1) determined to be unable to perform at least two activities of daily living without substantial human assistance, including verbal reminding, physical cueing, or supervision or (2)

unable to perform at least three such activities without such assistance; or, (3) due to a cognitive or other mental impairment, requires substantial supervision because the individual behaves in a manner that poses a serious health or safety hazard to the individual or to another individual.

Grandparent: A grandparent or step-grandparent of a child, or a relative of a child by blood, marriage or adoption, who: (1) lives with the child, (2) is the primary caregiver of the child because the biological or adoptive parents are unable or unwilling to serve as the primary caregiver of the child, and (3) has a legal relationship to the child, such as legal custody or guardianship, or is raising the child informally.

Major Disaster Declaration (MDD): States may request and receive an MDD by the President under the Stafford Act. Florida's request has been approved, which permits the Department and Contractor to use any portion of the funds made available under sections of OAA for disaster relief for older individuals. These flexibilities are only allowed during the period of the MDD. The Contractor will be notified via Notice of Instruction once the MDD period has ended, at which time these flexibilities will be waived and the Contractor must provide services in compliance with OAA.

1.2.1 General Statement

The primary purpose of the Coronavirus Consolidated Appropriations Act Program is to prevent, prepare for, and respond to coronavirus by providing nutrition services to older individuals and their caregivers. Additional funds have been awarded via the Expanding Access to COVID-19 Vaccines via the Aging Network Program to provide credible information about COVID-19 vaccines, identify people who may need help getting a COVID-19 vaccination, help with scheduling appointments and arranging accessible transportation to COVID-19 vaccination sites, reminding the person of their second vaccination appointment, and providing respite for caregivers to get their COVID-19 vaccination.

1.2.2 Authority

All applicable federal laws, regulations, action transmittals, program instructions, review guides and similar documentation related to the following:

- a. Catalog of Federal Domestic Assistance Nos. 93.044 and 93.045;
- b. Older Americans Act of 1965, as amended 2020;
- c. Consolidated Appropriations Act, 2021, P.L. 116-260;
- d. Expanding Access to COVID-19 Vaccines via the Aging Network, P.L. 116-260 and P.L. 116-131 and 42 U.S. Code Sec. 241;
- e. 42 U.S.C. 247d;
- f. 42 U.S.C. § 303 and § 604;
- g. Rule 58A-1, Florida Administrative Code (F.A.C.);
- h. Section 430.101, Florida Statutes (F.S.); and
- i. DOEA Programs and Services Handbook, which is hereby incorporated by reference, to include any subsequent revisions thereof.

1.2.3 Scope of Service

The Contractor is responsible for the programmatic, fiscal, and operational management of the Expanding Access to COVID-19 Vaccines via the Aging Network Program within its designated sector. The program services shall be provided in a manner consistent with the Contractor's current Service Provider Application (SPA), as updated and hereby incorporated by reference, and the current DOEA Programs and Services Handbook.

1.2.4 Major Program Goals

The major goals of the Expanding Access to COVID-19 Vaccines via the Aging Network Program is to provide information about the COVID-19 vaccinations, identify people needing a vaccination, scheduling appointments for their vaccinations, and arranging transportation and respite as needed.

1.3 CLIENTS TO BE SERVED

1.3.1 General Description

The Coronavirus Consolidated Appropriations Act Program gives preference to older individuals with greatest economic need and older individuals with greatest social need (with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas), and clients who are practicing social distancing due to the COVID-19 pandemic.

1.3.2 Client Eligibility

These funds are for the Contractor to serve older adults, age 60 or older, and their caregivers within their PSA.

SECTION II – MANNER OF SERVICE PROVISION

2.1 SERVICE TASKS

To achieve the goals of the Expanding Access to COVID-19 Vaccines via the Aging Network Program, the Contractor shall ensure the following tasks are performed.

2.1.1 Client Eligibility Determination

The Contractor shall ensure that applicant data is evaluated to determine eligibility. Eligibility to become a client based on meeting the requirements described in this Contract.

2.1.2 Targeting and Screening of Service Delivery for New Clients

The Contractor shall develop and implement policies and procedures consistent with OAA targeting and screening criteria for new clients.

2.1.3 Program Operations and Administration

The Contractor shall ensure the provision of services outlined in this Contract as follows:

1. Assign staff to make calls to seniors, 60 years of age or older, to disseminate credible information about COVID-19 vaccines and help direct those with questions to additional sources of information.
2. Identify people, 60 years of age or older, who may need help getting a COVID-19 vaccination, including those who are unable to independently travel to a vaccination site.
3. For those who need help, help the senior with scheduling a vaccination appointment.
4. Arrange and provide accessible transportation to and from COVID-19 Vaccination sites for the clients.
5. Call to remind the person of their second vaccination appointment if needed and providing transportation if needed to and from the vaccination site.
6. All calls would need to be documented with the following information:
 - a. Client Name
 - b. Client phone number
 - c. Client date of birth

- d. Client Address
- e. Date, time and duration of telephone call
- f. Name of staff making the calls
- g. The outcome of each interaction with client regarding COVID-19 Vaccination includes:
 - i. Was an appointment set –up?
 - ii. Was transportation arranged for the Vaccination Appointment?
 - iii. Did client need additional information? if so where were they referred to get this information?
 - iv. Were arrangements made to assist with the second vaccination appointment?
 - v. Were arrangements made to assist with transportation for the second vaccination appointment?
 - vi. Did the client already have the vaccination?
 - vii. Did the client refuse information about the vaccine?
- 7. Calls documented following the above guidelines will be reimbursable at the contracted rate.
- 8. Calls where the client is not spoken to, there is no answer, or leaving a message will not qualify for reimbursement.
- 9. When providing transportation to a COVID-19 Vaccination Site the following information will need to be captured to be billable:
 - a. Client Name and signature
 - b. Client phone number
 - c. Client address, date and time of pick-up and drop off at COVID_10 Vaccination Site
 - d. Address of vaccination site, date and time of pick-up and time of drop off and address where client is dropped off.

2.2 STAFFING REQUIREMENTS

2.2.1 Staffing Levels

The Contractor shall dedicate the staff necessary as required to meet the obligations of the contract.

2.2.2 Professional Qualifications

The Contractor shall ensure that the staff responsible for performing this Contract have the qualifications as specified in the DOEA Programs and Services Handbook.

2.2.3 Service Times

The Contractor shall ensure the provision of the services listed in the contract during normal business hours unless other times are more appropriate to meet the performance requirements of the contract, and it shall monitor its subcontractors to ensure they are available to provide services during hours responsive to client needs and during those times which best meet the needs of the relevant service community. Normal business hours are defined as Monday through Friday, 8:00am to 5:00pm, except on holidays.

2.2.4 Use of Volunteers to Expand the Provision of Available Services

The Contractor shall ensure the use of trained volunteers in providing direct services delivered to older individuals and individuals with disabilities needing such services. If possible, the Contractor shall work in coordination with organizations that have experience in providing training, placement, and stipends for volunteers or participants (such as the Senior Community Service Employment Program or organizations carrying out federal service programs administered by the Corporation for National and Community Service), in community service settings. The Contractor shall provide a quarterly report of volunteer activities and services in a format provided by the Council

2.3 USE OF SUBCONTRACTORS

If this Contract involves the use of a subcontractor or third party, then the Contractor shall not delay the implementation of its agreement with the subcontractor. If any circumstances occur that may result in a delay for a period of 60 days or more of the initiation of the subcontract or in the performance of the subcontractor, the Contractor shall notify the Council's Contract Manager and the Council's Finance Director in writing of such delay.

The Contractor shall not permit a subcontractor to perform services related to this Contract without having a binding subcontractor agreement executed. In accordance with Section 23 of the Master Contract, the Council will not be responsible or liable for any obligations or claims resulting from such action.

The Contractor shall submit a copy of all subcontracts to the Council's Contract Manager within thirty (30) days of the subcontract being executed.

2.3.1 Monitoring Performance of Subcontractors

The Council shall perform fiscal, administrative, and programmatic monitoring to ensure contractual compliance, fiscal accountability, programmatic performance, and compliance with applicable state and federal laws and regulations. The Council shall monitor to ensure that time schedules are met, the budget and scope of work are accomplished within the specified time periods and other performance goals stated in this Contract are achieved.

2.4 GRIEVANCE AND COMPLAIN PROCEDURES

2.4.1 Grievance Procedures

The Contractor shall comply with and ensure compliance with the Minimum Guidelines for Recipient Grievance Procedures, Appendix D, DOEA Programs and Services Handbook, to address complaints regarding the termination, suspension or reduction of services, as required for receipt of funds.

2.4.2 Complaint Procedures

The Contractor shall develop and implement complaint procedures to process and resolve client dissatisfaction with services. Complaint procedures shall address the quality and timeliness of services, provider and direct service worker complaints, or any other advice related to complaints other than termination, suspension or reduction in services that require the grievance process as described in Appendix D, DOEA Programs and Services Handbook. The complaint procedures shall include notification to all clients of the complaint procedure and include tracking the date, nature, and the determination of each complaint.

2.4.3 Legal Provider Grievance Procedures

Legal Providers must have an internal grievance procedure that addresses both denials of service and complaints by clients about the manner or quality of legal assistance. Grievance policies that comport with requirements of the Legal Services Corporation as provided in 45 CFR Part 1621 are sufficient to meet this standard. At a minimum, the procedure must provide applicants with:

- (1) Adequate notice of the grievance procedures;
- (2) Information on how to file a grievance or complaint, and;
- (3) An opportunity for review of the complaint by the Legal Provider's Executive Director or the Executive Director's designee.

The Council may not serve in an appellate capacity or otherwise interfere in the grievance review process for legal providers. However, the Council may request that legal providers maintain a file of complaints and statements of disposition of complaints, with redacted client identifying information, for examination by the Council during monitoring.

2.5 DELIVERABLES

The following section provides the specific quantifiable units of deliverables and source documentation required to evidence the completion of the task specified in this Contract.

2.5.1 Delivery of Services to Eligible Clients

The Contractor shall ensure the provision of a continuum of services that meets the diverse needs of elders and their caregivers. Documentation of service delivery must include a report consisting of the following: number of clients served, number of service units provided by service, and rate per service unit with calculations that equal the total invoice amount. The Contractor shall ensure the performance and reporting of the following types of services, in accordance with the Contractor's current SPA, the current DOEA Programs and Services Handbook, and the Statement of Work, Attachment I, of Section II of this Contract.

Expanding Access to COVID-19 Vaccines via the Aging Network

- i. Education (Individual and Group);
- ii. Information;
- iii. Outreach;
- iv. Respite (In-home and Facility-based);
- v. Telephone Reassurance – COVID-19; and
- vi. Transportation.

2.5.2 Services and Units of Services

The Contractor shall ensure the provision of services as described in this Contract is performed in accordance with the current DOEA Handbook and the service tasks described in ATTACHMENT I, Section II.2.1 through 2.1.3, of this Contract. Units of service will be paid pursuant to the rate established in the SPA as updated, as shown in ATTACHMENT IV, Budget Summary as approved by the Council.

2.5.3 Administrative Responsibilities

The Contractor shall provide management and oversight of Program operations in accordance with the current DOEA Handbook and the approved Contractor's Service Provider Application. Management and oversight of Expanding Access to COVID-19 Vaccines via the Aging Network Program operations include the following:

- a. Update the current SPA, as directed by the Council;
- b. Establishing services according to manuals, rules, and agreement procedures of DOEA Handbook;
- c. Arranging in-service training for staff and/or subcontractors at least annually;
- d. Establishing procedures for handling client complaints and ensuring that subcontractors develop and implement complaint procedures to process and resolve client dissatisfaction with

services. Complaint procedures shall address the quality and timeliness of services, subcontractor and direct service worker complaints, and any other issues related to complaints (other than termination, suspension or reduction in services) that require the grievance process as described in Appendix D of the current DOE A Handbook. The complaint procedures shall include notification to all clients of the complaint procedure and include tracking the date, nature of complaint, and the determination of each complaint;

- e. Ensuring compliance with CIRT S regulations;
- f. Monitoring performance objective achievements specific to authorizing proviso in accordance with targets set by the Council and/or DOE A; and
- g. Conducting annual client satisfaction surveys to evaluate and improve service delivery.

2.6 REPORTS

The Contractor shall respond to additional routine and/or special requests for information and reports required by the Council in a timely manner as determined by the Council's Contract Manager.

2.6.1 Client Information and Registration Tracking System (CIRT S) Reports

Contractor shall input Expanding Access to COVID-19 Vaccines via the Aging Network Program-specific data into CIRT S. To ensure CIRT S data accuracy, the Contractor shall use CIRT S-generated reports which include the following:

- | | |
|-------------------------|----------------------------------|
| (1) Client Reports; | (4) Miscellaneous Reports; |
| (2) Monitoring Reports; | (5) Fiscal Reports; and |
| (3) Services Reports; | (6) Outcome Measurement Reports. |

2.6.2 CIRT S Data Entries and Monthly Reports

The Contractor must ensure all required data for clients and services are entered in the CIRT S database per the DOE A Programs and Services Handbook and the CIRT S User Manual – Aging Network users (located in Documents on the CIRT S Enterprise Application Services). All data must be entered in the CIRT S database by the Contractor. The Contractor must review monthly CIRT S reports to ensure data and billing accuracy before submitting the Requests for Payment and Receipts and Expenditure Reports to the Department.

2.6.3 Service Costs Reports

The Contractor is required to submit annual service cost reports that reflect actual costs of providing each service by the program. This report provides information for planning and negotiating unit rates. This report is due 30 days after end of contract period.

2.6.4 Surplus/Deficit Report

The Contractor will submit a consolidated surplus/deficit report in a format provided by the Council's Contract Manager by the 5th business day of each month. This report is for all agreements and/or contracts between the Contractor and the Council. The report will include the following:

- (1) A list of all services and their current status regarding surplus or deficit;
- (2) The Contractor's detailed plan on how the surplus or deficit spending exceeding the threshold of plus or minus one percent (+/- 1%) will be resolved;
- (3) Recommendations to transfer funds to resolve surplus/deficit spending;

- (4) Input from the Contractor's Board of Directors on the resolution of spending issues, if applicable; and
- (5) Number of clients currently on Assessed Priority Consumer List (APCL) that receive a priority ranking score of 4 or 5.

2.6.5 Program Highlights

The Contractor shall submit brief written narratives to the Council for publication in the Program Highlight sections of the DOE's Summary of Programs and Services (SOPS), which is hereby incorporated by reference, to include any subsequent revisions thereof. The narratives shall reference specific events that have occurred since the last submission of Program Highlight narratives, including new success stories, quotes, testimonials, or human-interest vignettes. The narratives shall be written for a general audience, with no acronyms or technical terms. For all agencies or organizations that are referenced in the narratives, the Contractor shall provide a brief description of their mission or role. The active tense shall be consistently used in the narratives to identify the specific individuals or entities that performed the activities described in the narratives. The Contractor shall review and edit narratives for clarity, readability, relevance, specificity, human interest, and grammar prior to submitting them to the Council. The Program Highlights should be included in each of the Quarterly Project Director Reports while this contract is in effect.

2.7 RECORDS AND DOCUMENTATION

The Contractor will maintain documentation to support payment requests that shall be available to the Council or authorized individuals upon request. Such documentation will be provided upon request to the Council or the State of Florida Department of Financial Services.

2.7.1 CIRT's Data and Maintenance

The Contractor will ensure the collection and maintenance of client and service information on a monthly basis from the CIRT's or any other system designated by the Council. Maintenance includes ensuring that all data is accurate and current and performing valid exports and backups of all data and systems according to the DOE standards.

2.7.2 Data Integrity and Back up Procedures

Each Contractor, among other requirements, must anticipate and prepare for the loss of information processing capabilities. The routine backing up of all data and software is required to recover from losses or outages of the computer system. Data and software essential to the continued operation of Contractor functions must be backed up. The security controls over the backup resources shall be as stringent as the protection required of the primary resources. It is recommended that a copy of the backed up data be stored in a secure, offsite location.

2.7.3 Policies and Procedures for Records and Documentation

The Contractor shall maintain written policies and procedures for computer system backup and recovery. These policies and procedures shall be made available to the Council upon request.

2.7.4 CIRT's Address Validation

The Contractor shall work with the Council to ensure that client addresses are correct in CIRT's for disaster preparedness efforts. At least annually, and more frequently as needed, the Council will provide direction on how to validate CIRT's addresses to ensure they can be mapped. The Contractor will receive a list of unmatched addresses that cannot be mapped, and the Contractor will be responsible for correcting the addresses and send a list to the Council with confirmed

addresses. The Council will use this information to update maps, client rosters, and unmatched addresses and disseminate this information.

2.8 PERFORMANCE SPECIFICATIONS

2.8.1 Outcomes and Outputs (Performance Measures)

The Contractor must:

- a. Ensure the prioritization of clients and provision of services to clients in accordance with ATTACHMENT I, Section II.2.1 through Section II.2.1.3 and Section II.2.5.1 through Section II.2.5.4 of this Contract;
- b. Ensure the provision of services described in this Contract are in accordance with the current DOE Handbook;
- c. Timely and accurately submit to the Council all required documentation and reports described in this ATTACHMENT I, Sections II.2.6 of this Contract; and
- d. Timely and accurately, in accordance with the Invoice Report Schedule, ATTACHMENT III of this Contract, submit to the Council Forms 105 & 106, ATTACHMENT V of this Contract, including supporting documentation.

2.8.2 Contract Monitoring

The Council will review and evaluate the performance of the Contractor under the terms of this Contract. Monitoring will be conducted through direct contact with the Contractor through telephone, in writing, or an on-site or virtual visit(s). The primary, secondary, or signatory of this Contract must be available for any on-site or virtual programmatic monitoring visit. The Council's determination of acceptable performance shall be conclusive. The Contractor agrees to cooperate with the Council in monitoring the progress of completion of the service tasks and deliverables. The Council may use, but is not limited to, one or more of the following methods for monitoring:

- a. Desk reviews and analytical reviews;
- b. Scheduled, unscheduled and follow-up on-site or virtual visits;
- c. Client visits;
- d. Review of independent auditor's reports;
- e. Review of third-party documents and/or evaluation;
- f. Review of progress reports;
- g. Review of customer satisfaction surveys;
- h. Agreed-upon procedures review by an external auditor or consultant;
- i. Limited-scope reviews; and

- j. Other procedures as deemed necessary.

The Council shall conduct at least one onsite technical assistance visit per year. During this technical assistance visit, the Contractor will arrange for observation of the delivery of service provided to seniors in the local community. The technical assistance visit will consist of training and open discussions necessary to assist with understanding and comply with the contract.

2.9 CONTRACTOR'S RESPONSIBILITIES

2.9.1 Contractor Accountability

All service tasks and deliverables pursuant to this Contract are solely and exclusively the responsibility of the Contractor, and for which, by the execution of this Contract, the Contractor agrees to be held accountable.

2.9.2 Coordination with Other Providers and/or Entities

Notwithstanding that services for which the Contractor is held accountable involve coordinating with other entities in performing the requirements of the contract; the failure of other entities does not alleviate the Contractor from any accountability for tasks or services that the Contract is obligated to perform pursuant to this Contract.

2.9.3 Use of Service Dollars and Assessed Priority Consumer List Management

The Contractor is expected to spend all federal, state and other funds provided by the Council for the purpose specified in this Contract. The Contractor must manage service funds in such a manner as to avoid having a wait list and a surplus of funds at the end of the contract period for each program managed by the Contractor. If the Council determines that the Contractor is not spending service funds accordingly, the Council may transfer funds to other service areas during the contract period and/or adjust subsequent funding allocations accordingly, as allowable under state and federal law.

2.9.4 Contract Limits

In no case shall the Contractor be required to incur costs in excess of the contract amount in providing services to clients.

2.10 COUNCIL'S RESPONSIBILITIES

2.10.1 Council's Obligations

The Council may provide technical support to assist the Contractor in meeting the requirements of this Contract.

2.10.2 Council's Determinations

The Council reserves the exclusive right to make certain determinations in the tasks and approaches. The absence of the Council setting forth a specific reservation of rights does not mean that all other areas of the contract are subject to mutual agreement.

SECTION III: METHOD OF PAYMENT

3.1 General Statement of Method of Payment

The method of payment for this Contract is a fixed rate for services. The Contractor shall ensure fixed rates for services include only those costs that are in accordance with all applicable state and federal statutes and regulations and are based on audited historical costs in instances where an independent audit is required. The Contractor shall consolidate all requests for payment and expenditure reports that support requests for payment and shall submit to the Council on forms 106 and 105, ATTACHMENT V.

3.1.1 The Contractor agrees to distribute funds as detailed in ATTACHMENT IV, Budget Summary. The Contractor may request a budget revision by submitting a written request to the Council's Contract Manager. Upon approval, the Council's Finance Director will issue a budget revision letter. An amendment is required to change the total amount of the contract.

3.2 Invoice Submittal and Requests for Payment

All requests for payment and expenditure reports submitted to support requests for payment shall be on forms 105 and 106, ATTACHMENT V. The Contractor will consolidate all requests for payment and expenditure reports that support requests for payment.

3.2.1 The Contractor shall include with its request for payment documentation of services provided, the units of services provided, and the rates for the services provided in conformance with the requirements as described in this ATTACHMENT I and ATTACHMENT IV, Budget Summary. Each deliverable must be received and accepted by the Council before payment is made.

3.2.2 The Contractor shall maintain documentation to support payment requests that shall be available to the Council or authorized individuals upon request. Such documentation shall be provided upon request to the Council or the DOEA.

3.2.3 Any payment due by the Council under the terms of this contract may be withheld pending the receipt and approval by the Council of all financial and programmatic reports due from the Contractor and any adjustments thereto, including any disallowance not resolved as outlined in the Master Contract.

3.3 Documentation for Payment

The Contractor shall maintain documentation to support payment requests that shall be available to the Council or authorized individuals.

3.3.1 The Contractor will enter all required data per the CIRTIS Policy Guidelines for clients and services in the CIRTIS database. The data must be entered into the CIRTIS before the Contractor can submit their request for payment and expenditure reports to the Council. The Contractor shall establish time frames to assure compliance with due dates for the requests for payment and expenditure reports to the Council.

3.3.2 The Contractor will run monthly CIRTIS reports and verify client and service data in the CIRTIS is accurate. This report must be submitted to the Council with the monthly request for payment and expenditure report and must be reviewed by the Council before the Contractor's request for payment and expenditure reports can be approved by the Council. All payment requests shall be based on the submission of actual monthly expenditure reports beginning with the first month of the contract. The schedule for submission of advance requests (when available) and invoices is ATTACHMENT III, Invoice Report Schedule, to this Contract. Payment may be authorized only for allowable

expenditures, which are in accordance with the limits specified in ATTACHMENT IV, Budget Summary.

3.3.3 Any payment due by the Council under the terms of this Contract may be withheld pending the receipt and approval of all financial and programmatic reports due from the Contractor and any adjustments thereto, including any disallowance not resolved as outlined in the Master Contract.

3.3.4 Contractor shall ensure compliance with evidence-based programs. Should the Contractor not comply with the research design of the program, reimbursement for services will be at the sole discretion of the Council.

3.4 Date for Final Request for Budget Revisions

Final requests for budget revision or adjustments to contract funds based on expenditures for services provided through September 30, 2022, must be submitted to the Council's Contract Manager and Finance Director, no later than September 30, 2022.

3.4.1 Date for Final Request for Payment

The final request for payment will be due to the Council no later than October 20, 2022.

3.5 Corrective Action Plan

If at any time the Contractor is notified by the Council's Contract Manager that it has failed to correctly, completely, adequately perform contract deliverables identified in this Contract, the Contractor will have ten (10) days to submit a CAP to the Council's Contract Manager that addresses the deficiencies and states how the deficiencies will be remedied within a time period approved by the Council's Contract Manager. The Council shall assess a financial consequence for noncompliance on the Contractor as referenced in ATTACHMENT I, Section 3.6 of this Contract for each deficiency identified in the CAP, which is not corrected pursuant to the CAP. The Council will also assess a Financial Consequence for failure to timely submit a CAP.

If the Contractor fails to correct an identified deficiency within the approved time period specified in the CAP, the Council shall deduct the percentage established in ATTACHMENT I, Section 3.6 of this Contract from the payment for the invoice of the following month.

If the Contractor fails to timely submit a CAP, the Council shall deduct the percentage established in ATTACHMENT I, Section 3.6 of this Contract for each day the CAP is overdue. The deduction will be made from the payment for the invoice of the following month.

If, or to the extent, there is any conflict between ATTACHMENT I, Section 3.6, and the Master Contract, Section 3.6 shall have precedence.

3.6 Financial Consequences

The Council will withhold or reduce payment if the Contractor fails to perform the deliverables to the satisfaction of the Council according to the requirements referenced in ATTACHMENT I, Section 2.1 of this Contract. The following financial consequences will be imposed if the deliverables stated do not meet in part or in whole the performance criteria as outlined in ATTACHMENT I, Section 3.3.3 of this Contract.

Failure to comply with established assessment and prioritization criteria, as evidenced by the CIRT reports, will result in a 2% reduction of payment per business day. The reduction of payment will

begin on the first business day following the Council's notification to the Contractor that the identified deficiency was not cured or satisfactorily addressed in accordance with the Council-approved CAP, referenced in ATTACHMENT I, Section 3.5.

Failure to perform management and oversight of Program operations will result in a 2% reduction of payment per business day. The reduction of payment will begin the first business day following the Council's notification to the Contractor that the identified deficiency was not cured or satisfactorily addressed in accordance with the Council-approved CAP, referenced in ATTACHMENT I, Section 3.5.

Failure to timely submit a CAP within 10 business days after notification of a deficiency by the Council Contract Manager will result in a 2% reduction of payment per business day the CAP is not received. The reduction of payment will begin the first business day following the Council's notification to the Contractor that the identified deficiency was not cured or satisfactorily addressed in accordance with the Council approved CAP, referenced in ATTACHMENT I, Section 3.5.

Failure to provide services in accordance with the current DOE Programs and Services Handbook, the service tasks described in ATTACHMENT I, Section 2.1, and submission of required documentation will result in a 2% reduction of payment per business day. The reduction of payment will begin on the 11th business day following the Council's notification that it has failed to correctly, completely, adequately perform contract deliverables identified in this Contract.

3.7 Incident Reporting

- 3.7.1** The Contractor shall notify the Council immediately, but no later than forty-eight (48) hours from, the Contractor's awareness or discovery of conditions that may materially affect the Contractor's ability to perform the services required to be performed under any contract or agreement which incorporates Master Contract by reference. Such notice shall be made orally to the Council's Contract Manager (by telephone) with an email to immediately follow.

3.8 Remedies-Nonconforming Services

The Contractor shall ensure that all goods and/or services provided under this Contract are delivered timely, completely, and commensurate with required standards of quality. Such goods and/or services will only be delivered to eligible program participants.

If the Contractor fails to meet the prescribed quality standards for services, such services will not be reimbursed under this Contract. In addition, any nonconforming goods (including home delivered meals) and/or services not meeting such standards will not be reimbursed under this Contract. The Contractor's signature on the request for payment form certifies maintenance of supporting documentation and acknowledgment that the Contractor shall solely bear the costs associated with preparing or providing nonconforming goods and/or services. The Council requires immediate notice of any significant and/or systemic infractions that compromise the quality, security or continuity of services to clients.

3.9 Consequences for Noncompliance

Contractor shall ensure 100% of the deliverables identified in this Contract are performed pursuant to contract requirements.

3.10 Enforcement

The Council may, without taking any intermediate measures available to it against the Contractor, rescind the Contractor's designation as a Contractor, if the Council finds that:

- (1) An intentional or negligent act of the Contractor has materially affected the health, welfare, or safety of clients served pursuant to any contract or agreement incorporating Master Contract by reference, or substantially and negatively affected the operation of services covered under any contract or agreement;
- (2) The Contractor lacks financial stability sufficient to meet contractual obligations or that contractual funds have been misappropriated;
- (3) The Contractor has committed multiple or repeated violations of legal and regulatory standards, regardless of whether such laws or regulations are enforced by the Council, or the Contractor has committed or repeated violations of Council standards;
- (4) The Contractor has failed to continue the provision or expansion of services after the declaration of a state of emergency;
- (5) The Contractor has exceeded its authority or otherwise failed to adhere to the terms of Master Contract and any contract or agreement incorporating Master Contract by reference;
- (6) The Contractor has failed to properly determine client eligibility as defined by the Council or efficiently manage program budgets; and/or
- (7) The Contractor has failed to implement and maintain a Council-approved client grievance resolution procedure.

3.10.1 In making any determination under this provision the Council may rely upon the findings of another state or federal agency, or other regulatory body. Any claims for damages for breach of any contract or agreement incorporating Master Contract by reference are exempt from administrative proceedings and shall be brought before the appropriate entity in the venue of Broward County, Florida.

END OF ATTACHMENT I

ATTACHMENT II**FINANCIAL AND COMPLIANCE AUDIT**

The administration of resources awarded by the Council to the Contractor may be subject to audits and/or monitoring by the Council, as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200 (formerly OMB Circular A-133 as revised), and Section 215.97, F.S., (see “AUDITS” below), monitoring procedures may include, but not be limited to, on-site or virtual visits by the Council staff, limited scope audits, and/or other procedures. By entering into this Contract, the Contractor agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Council. In the event the Council determines that a limited scope audit of the Contractor is appropriate, the provider agrees to comply with any additional instructions provided by the Council to the provider regarding such audit. The Contractor further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Council or Auditor General.

AUDITS**PART I: FEDERALLY FUNDED**

This part is applicable if the Contractor is a State or local government or a non-profit organization as defined in 2 CFR Part 200, Subpart A.

In the event that the Contractor expends \$750,000.00 or more in federal awards during its fiscal year, the Contractor must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200. EXHIBIT 2 indicates federal resources awarded through the Council by this Contract. In determining the federal awards expended in its fiscal year, the provider shall consider all sources of Federal awards, including federal resources received from the Council. The determination of amounts of Federal awards expended should be in accordance with 2 CFR Part 200. An audit of the Contractor conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200 will meet the requirements of this part.

In connection with the audit requirements addressed in Part I, paragraph 1, the Contractor shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §200.508.

If the Contractor expends less than \$750,000.00 in federal awards in its fiscal year, an audit conducted in accordance with the provisions of 2 CFR Part 200 is not required. In the event that the Contractor expends less than \$750,000.00 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200 the cost of the audit must be paid from non-federal resources (i.e., the cost of such audit must be paid from Contractor resources obtained from other than federal entities.)

An audit conducted in accordance with this part shall cover the entire organization for the organization’s fiscal year. Compliance findings related to contract with the Council shall be based on the contract’s requirements, including any rules, regulations, or statutes referenced in the contract. The financial statements shall disclose whether or not the matching requirement was met for each applicable contract. All questioned costs and liabilities due to the Council shall be fully disclosed in the audit report with reference to the Council contract involved. If not otherwise disclosed as required by 2 CFR §200.510 the schedule of expenditures of federal awards shall identify expenditures by contract number for each contract with the Council in effect during the audit period. Financial reporting packages required under this part must be submitted within the earlier of 30 days after receipt of the audit report or 9 months after the end of the Contractor’s fiscal year end.

PART II: STATE FUNDED

This part is applicable if the Contractor is a non-state entity as defined by Section 215.97(2), F.S.

In the event that the Contractor expends a total amount of state financial assistance equal to or in excess of \$750,000.00 in any fiscal year of such Contractor, the Contractor must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; applicable rules of the Department of Financial

Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 2, Financial Compliance Audit Attachment to this Contract indicates state financial assistance awarded through the Council by this Contract. In determining the state financial assistance expended in its fiscal year, the provider shall consider all sources of state financial assistance, including state financial assistance received from the Council, other state agencies, and other non-state entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a non-state entity for Federal program matching requirements.

In connection with the audit requirements addressed in Part II, paragraph 1, the Contractor shall ensure that the audit complies with the requirements of Section 215.97(8), F.S. This includes submission of a financial reporting package as defined by Section 215.97(2), F.S., and Chapter 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

If the Contractor expends less than \$750,000.00 in state financial assistance in its fiscal year, an audit conducted in accordance with the provisions of Section 215.97, F.S., is not required. In the event that the Contractor expends less than \$750,000.00 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, F.S., the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the provider resources obtained from other than State entities).

An audit conducted in accordance with this part shall cover the entire organization for the organization's fiscal year. Compliance findings related to contracts with the Council shall be based on the contract's requirements, including any applicable rules, regulations, or statutes. The financial statements shall disclose whether or not the matching requirement was met for each applicable agreement. All questioned costs and liabilities due to the Council shall be fully disclosed in the audit report with reference to the Council contract involved. If not otherwise disclosed as required by Rule 69I-5.003, F.A.C., the schedule of expenditures of state financial assistance shall identify expenditures by contract number for each contract with the Council in effect during the audit period. Financial reporting packages required under this part must be submitted within 45 days after delivery of the audit report, but no later than 12 months after the Contractor's fiscal year end for local governmental entities. Non-profit or for-profit organizations are required to be submitted within 45 days after delivery of the audit report, but no later than 9 months after the Contractor's fiscal year end. Notwithstanding the applicability of this portion, the Council retains all right and obligation to monitor and oversee the performance of this contract as outlined throughout this document and pursuant to law.

PART III: REPORT SUBMISSION

Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200 and required by PART I of this Financial Compliance Audit Attachment shall be submitted, when required by 2 CFR §200.512 by or on behalf of the provider directly to each of the following:

Federal Audit Clearinghouse Bureau of the Census
1201 East 10th Street Jeffersonville, IN 47132

Pursuant to 2 CFR §200.512, all other Federal agencies, pass-through entities and others interested in a reporting package and data collection form must obtain it by accessing the Federal Audit Clearinghouse.

The Contractor shall submit a copy of any management letter issued by the auditor, to the Council at the following address:

Areawide Council on Aging of Broward County, Inc.
5300 Hiatus Road Sunrise, FL 33351

Additionally, copies of financial reporting packages required by PART II of this Financial Compliance Audit Attachment shall be submitted by or on behalf of the Contractor directly to each of the following:

The Council at the following address:

Areawide Council on Aging of Broward County, Inc.
5300 Hiatus Road Sunrise, FL 33351

The Auditor General's Office at the following address:

State of Florida Auditor General
Claude Pepper Building, Room 574
111 West Madison Street Tallahassee, Florida 32399-1450

Any reports, management letter, or other information required to be submitted to the Council pursuant to this contract shall be submitted timely in accordance with 2 CFR Part 200, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Contractors, when submitting financial reporting packages to the Council for audits done in accordance with 2 CFR Part 200 or Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to the Contractor in correspondence accompanying the reporting package.

PART IV: RECORD RETENTION

The provider shall retain sufficient records demonstrating its compliance with the terms of this Contract for a period of six (6) years from the date the audit report is issued, and shall allow the Council or its designee, the CFO or Auditor General access to such records upon request. The provider shall ensure that audit working papers are made available to the Council or its designee, CFO, or Auditor General upon request for a period of six (6) years from the date the audit report is issued, unless extended in writing by the Council.

END OF ATTACHMENT

EXHIBIT 1**PART I: AUDIT RELATIONSHIP DETERMINATION**

Contractors who receive state or federal resources may or may not be subject to the audit requirements of 2 CFR Part 200 and/or Section 215.97, F.S. Contractors who are determined to be recipients or sub-recipients of federal awards and/or state financial assistance may be subject to the audit requirements if the audit threshold requirements set forth in Part I and/or Part II of Exhibit 1 are met. Providers who have been determined to be vendors are not subject to the audit requirements of 2 CFR §200.38, and/or Section 215.97, F.S. Regardless of whether the audit requirements are met, providers who have been determined to be recipients or sub-recipients of Federal awards and/or state financial assistance must comply with applicable programmatic and fiscal compliance requirements.

In accordance with 2 CFR Part 200 and/or Rule 69I-5.006, FAC, Contractor has been determined to be:

 Vendor not subject to 2 CFR §200.38 and/or Section 215.97, F.S.

 X Recipient/sub-recipient subject to 2 CFR §200.86 and §200.93 and/or Section 215.97, F.S.

 Exempt organization not subject to 2 CFR Part 200 and/or Section 215.97, F.S. For Federal awards, for-profit organizations are exempt; for state financial assistance projects, public universities, community colleges, district school boards, branches of state (Florida) government, and charter schools are exempt. Exempt organizations must comply with all compliance requirements set forth within the contract or award document.

NOTE: If a Contractor is determined to be a recipient/sub-recipient of federal and or state financial assistance and has been approved by the Council to subcontract, they must comply with Section 215.97(7), F.S., and Rule 69I-5.006, F.A.C. [state financial assistance] and 2 CFR §200.330[federal awards].

PART II: FISCAL COMPLIANCE REQUIREMENTS

FEDERAL AWARDS OR STATE MATCHING FUNDS ON FEDERAL AWARDS. Contractors who receive Federal awards, state maintenance of effort funds, or state matching funds on Federal awards and who are determined to be a subrecipient must comply with the following fiscal laws, rules and regulations:

STATES, LOCAL GOVERNMENTS AND INDIAN TRIBES MUST FOLLOW:

2 CFR §200.416 - §200.417 – Special Considerations for States, Local Governments and Indian Tribes*

2 CFR §200.201 – Administrative Requirements**

2 CFR §200 Subpart F – Audit Requirements

Reference Guide for State Expenditures

Other fiscal requirements set forth in program laws, rules and regulations

NON-PROFIT ORGANIZATIONS MUST FOLLOW:

2 CFR §200.400 - §200.411 – Cost Principles*

2 CFR §200.100 – Administrative Requirements

2 CFR §200 Subpart F – Audit Requirements

Reference Guide for State Expenditures

Other fiscal requirements set forth in program laws, rules and regulations

EDUCATIONAL INSTITUTIONS (EVEN IF A PART OF A STATE OR LOCAL GOVERNMENT) MUST FOLLOW:

2 CFR §200.418 – §200.419 – Special Considerations for Institutions of Higher Education*

2 CFR §200.100 – Administrative Requirements

2 CFR §200 Subpart F – Audit Requirements

Reference Guide for State Expenditures

Other fiscal requirements set forth in program laws, rules and regulations

*Some Federal programs may be exempted from compliance with the Cost Principles Circulars as noted in 2 CFR §200.400(5) (c).

**For funding passed through U.S. Health and Human Services, 45 CFR 75; for funding passed through U.S. Department of Education, 34 CFR 80.

STATE FINANCIAL ASSISTANCE. Contractors who receive state financial assistance and who are determined to be a recipient/sub-recipient must comply with the following fiscal laws, rules and regulations:

- Section 215.97 & 215.971, F.S.

- Chapter 69I-5, F.A.C.

- State Projects Compliance Supplement

- Reference Guide for State Expenditures

- Other fiscal requirements set forth in program laws, rules and regulations

END OF EXHIBIT

EXHIBIT 2**FUNDING SUMMARY**

Note: Title 2 CFR, as revised, and Section 215.97, F.S., require that the information about Federal Programs and State Projects included in Attachment II, Exhibit 1, be provided to the recipient. Information contained herein is a prediction of funding sources and related amounts based on the contract budget.

1. FEDERAL RESOURCES AWARDED TO THE SUBRECIPIENT PURSUANT TO THIS AGREEMENT CONSISTS OF THE FOLLOWING:

Program Title	Year	Funding Source	CFDA#	Fund Amounts
Expanding Access to COVID-19 Vaccines via the Aging Network	2021	U.S. Dept. of Health and Human Services	93.044	\$11,762.25
TOTAL FUNDS CONTAINED IN THIS CONTRACT:				\$11,762.25

COMPLIANCE REQUIREMENTS APPLICABLE TO THE FEDERAL RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

FEDERAL FUNDS:

2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. OMB Circular A-133, As amended – Audits of States, Local Governments, and Non-Profit Organizations.

2. STATE RESOURCES AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

PROGRAM TITLE	FUNDING SOURCE	CFDA	AMOUNT
TOTAL STATE AWARD			

MATCHING RESOURCES FOR FEDERAL PROGRAMS

STATE FINANCIAL ASSISTANCE SUBJECT TO Sec. 215.97, F.S.

PROGRAM TITLE	FUNDING SOURCE	CSFA	AMOUNT
TOTAL AWARD			\$

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT ARE AS FOLLOWS:

STATE FINANCIAL ASSISTANCE

Section 215.97, F.S., Chapter 69I-5, FL Admin Code, Reference Guide for State Expenditures, Other fiscal requirements set forth in program laws, rules, and regulations.

ATTACHMENT III**Expanding Access to COVID-19 Vaccines via the Aging Network****INVOICE REPORT SCHEDULE**

Report #	Based On	Due Date
1	February 2021 Expenditure Report	March 5
2	March 2021 Expenditure Report	April 9
3	April 2021 Expenditure and Closeout Report	May 7
4	May 2021 Expenditure Report	June 7
5	June 2021 Expenditure Report	July 8
6	July 2021 Expenditure Report	August 6
7	August 2021 Expenditure Report	September 7
8	September 2021 Expenditure Report	October 7
9	October 2021 Expenditure Report	November 5
10	November 2021 Expenditure Report	December 7
11	December 2021 Expenditure Report	January 7
12	January 2022 Expenditure Report	February 7
13	February 2022 Expenditure Report	March 7
14	March 2022 Expenditure Report	April 7
15	April 2022 Expenditure Report	May 6
16	May 2022 Expenditure Report	June 7
17	June 2022 Expenditure Report	July 8
18	July 2022 Expenditure Report	August 5
19	August 2022 Expenditure Report	September 7
20	September 2022 Expenditure Report	October 7
21	Final Expenditure Report	October 20

Note # 1: Submission of expenditure reports may or may not generate a payment request. If the final expenditure report reflects funds due back to the Council, payment is to accompany the report.

Note # 2: Reports submitted after the 10th of the month will be processed the following month. This rule will be strictly enforced.

ATTACHMENT IV**BUDGET SUMMARY****Expanding Access to COVID-19 Vaccines via the Aging Network**

FIXED SERVICES	Total Units	Unit Rate	Federal Funds	Council Match Funds	Total Reimbursement
Telephone Reassurance COVID19	1,245	\$9.45	\$11,762.25	\$0.00	\$11,762.25
TOTAL CONTRACT AMOUNT			\$11,762.25	\$0.00	\$11,762.25

ATTACHMENT V

Forms 105 and 106Sub Contractor for PSA #10
ADRC of Broward County

CONTRACT #

**RECEIPTS AND UNIT COST REPORT
PROGRAM**

PROVIDER NAME, ADDRESS, PHONE # and FEID# PROVIDER NAME ADDRESS ADDRESS Tel: 954-XXX-XXXX Fax: 954-XXX-XXXX FEID #: 59-XXXXXXX	FUNDING SOURCE: Program	THIS REPORT PERIOD MONTH REPORT #: CONTRACT PERIOD: CONTRACT # PSA #: 10					
CERTIFICATION: I certify to the best of my knowledge and belief that the report is complete and correct and all outlays herein are for purposes set forth in the contract. Further, I certify that the attached monthly and YTD service units /undup clients' report is correct.							
Prepared By: Date: Approved By: Date:							
PART a: INCOME / RECEIPTS 1. Federal Funds 2. State Funds 3. Program Income 4. Local Cash Match 5. SUBTOTAL: CASH RECEIPTS 6. Local In-Kind match 7. TOTAL RECEIPTS	A. Approved Budget \$0.00 \$0.00 \$0.00	B. Actual Receipts for \$0.00 \$0.00 \$0.00	C. Total Receipts Year to Date \$0.00 \$0.00 \$0.00	D. % Of Approved Budget #DIV/0! #DIV/0! #DIV/0!			
PART b: UNIT COST REPORT							
(A)	(B)	(C)	(D)	(E)	(F)	(G)	
SERVICE	CONTRACT AMOUNT	UNITS	UNIT RATE	AMOUNT EARNED THIS PERIOD	AMOUNT PREV. EARNED	AMOUNT EARNED YTD	
<u>FIXED SERVICES</u>							
				\$0.00	\$0.00	\$0.00	#DIV/0!
				\$0.00	\$0.00	\$0.00	#DIV/0!
				\$0.00	\$0.00	\$0.00	
				\$0.00	\$0.00	\$0.00	
				\$0.00	\$0.00	\$0.00	
				\$0.00	\$0.00	\$0.00	
				\$0.00	\$0.00	\$0.00	
	\$0.00			\$0.00	\$0.00	\$0.00	
PART c: OTHER REVENUE / PROGRAM INCOME 1. CONTRIBUTIONS: (EXCLUDES CLIENT CO-PAY COLLECTIONS) 2. CLIENT CO-PAY ASSESSED 3. CLIENT CO-PAY COLLECTIONS 4. INTEREST (NET AMOUNT NOT RETURNED) 5. MATCH VALUATION (INCLUDES CASH & IN-KIND)				A. Total - Current Month \$0.00 \$0.00 \$0.00 \$0.00 \$0.00		B. Total - Year To Date \$0.00 \$0.00 \$0.00 \$0.00 \$0.00	

PSA #10 Form 105A, Dated July 1997

CONTRACT #

**CASH ADVANCE AND CONTRACT PAYMENT REQUEST FORM
PROGRAM
FUNDING SOURCE**

PROVIDER NAME, ADDRESS, PHONE & FEID # PROVIDER NAME ADDRESS ADDRESS Tel: 954-XXX-XXXX Fax: 954-XXX-XXXX FEID #: 59-XXXXXXX	TYPE OF REPORT: A. PAYMENT REQUEST: Regular ☒ Supplemental B. METHOD OF PAYMENT: Advance ☐ Reimbursement ☒	THIS REQUEST PERIOD: MONTH REPORT #: CONTRACT PERIOD: CONTRACT # PSA#: 10		
CERTIFICATION: I hereby certify that this request or refund conforms with the terms of the above contract.				
Prepared By:	Date:	Approved By:	Date:	
PART A: CONTRACT FUNDS SUMMARY	SERVICE	SERVICE	SERVICE	TOTAL
1. Approved Contract Amount	\$0.00	\$0.00	\$0.00	\$0.00
2. Previous Funds Requested for Contract Period	\$0.00	\$0.00	\$0.00	\$0.00
3 Contract Funds Available	\$0.00	\$0.00	\$0.00	\$0.00
PART B: CONTRACT FUNDS REQUESTED:				
1. Cash Advances (1st-2nd Months)	\$0.00	\$0.00	\$0.00	\$0.00
2. Amount Earned This Period (= to PSA #10 Form 105Z Part B , Column E)	\$0.00	\$0.00	\$0.00	\$0.00
3. Total	\$0.00	\$0.00	\$0.00	\$0.00
PART C: NET FUNDS REQUESTED:				
1. Less Overadvance	\$0.00	\$0.00	\$0.00	\$0.00
2. Contract Funds Are Hereby Requested (Part B Line 4 minus Part C line 1) (Not to exceed Part A Line 5)	\$0.00	\$0.00	\$0.00	\$0.00
ADVANCE EARNED	\$0.00	\$0.00	\$0.00	\$0.00
Advance Remaining	\$0.00	\$0.00	\$0.00	\$0.00

PSA #10 FORM 106C, Dated July 97

AAA Office Use Only

BATCH #: _____

VENDOR ID: P-PROVIDER

DESC: PROVIDER PROGRAM MM/YYYY

ACCOUNT #: _____

CHECK # _____ CHECK DATE: _____

INPUT: _____ APPROVAL: _____

ATTACHMENT VI**CERTIFICATIONS AND ASSURANCES**

DOEA will not award this Contract unless Contractor completes the CERTIFICATIONS AND ASSURANCES contained in this Attachment. In performance of this Contract, Contractor provides the following certifications and assurances:

- A. Debarment and Suspension Certification (29 CFR Part 95 and 45 CFR Part 75)**
- B. Certification Regarding Lobbying (29 CFR Part 93 and 45 CFR Part 93)**
- C. Nondiscrimination & Equal Opportunity Assurance (29 CFR Part 37 and 45 CFR Part 80)**
- D. Certification Regarding Public Entity Crimes, section 287.133, F.S.**
- E. Association of Community Organizations for Reform Now (ACORN) Funding Restrictions Assurance (Pub. L. 111-117)**
- F. Scrutinized Companies Lists and No Boycott of Israel Certification, section 287.135, F.S.**
- G. Certification Regarding Data Integrity Compliance for Contracts, Agreements, Grants, Loans and Cooperative Agreements**
- H. Verification of Employment Status Certification**
- I. Records and Documentation**
- J. Certification Regarding Inspection of Public Records**

A. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS – PRIMARY COVERED TRANSACTIONS.

The undersigned Contractor certifies to the best of its knowledge and belief, that it and its principals:

1. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a Federal department or agency;
2. Have not within a three-year period preceding this Contract been convicted or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Are not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph A.2. of this certification; and/or
4. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause of default.

B. CERTIFICATION REGARDING LOBBYING – Certification for Contracts, Grants, Loans, and Cooperative Agreements.

The undersigned Contractor certifies, to the best of its knowledge and belief, that:

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

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

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

C. NON DISCRIMINATION & EQUAL OPPORTUNITY ASSURANCE (29 CFR PART 37 AND 45 CFR PART 80).

As a condition of the Contract, Contractor assures that it will comply fully with the nondiscrimination and equal opportunity provisions of the following laws:

1. Section 188 of the Workforce Investment Act of 1998 (WIA), (Pub. L. 105-220), which prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation, or belief, and against beneficiaries on the basis of either citizenship/status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIA Title I-financially assisted program or activity;
2. Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 80), to the end that, in accordance with Title VI of that Act and the Regulation, no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Council.
3. Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112) as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 84), to the end that, in accordance with Section 504 of that Act, and the Regulation, no otherwise qualified handicapped individual in the United States shall, solely by reason of his handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Council.
4. The Age Discrimination Act of 1975 (Pub. L. 94-135), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 91), to the end that, in accordance with the Act and the Regulation, no person in the United States shall, on the basis of age, be denied the benefits of, be excluded from participation in, or be subjected to discrimination under any program or activity for which the Applicant receives Federal financial assistance from the Council.
5. Title IX of the Educational Amendments of 1972 (Pub. L. 92-318), as amended, and all requirements imposed by or pursuant to the Regulation of the Department of Health and Human Services (45 CFR Part 86), to the end that, in accordance with Title IX and the Regulation, no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any education program or activity for which the Applicant receives Federal financial assistance from the Council.
6. The American with Disabilities Act of 1990 (Pub. L. 101-336), prohibits discrimination in all employment practices, including, job application procedures, hiring, firing, advancement, compensation, training, and other terms, conditions, and privileges of employment. It applies to recruitment, advertising, tenure, layoff, leave, fringe benefits, and all other employment-related activities, and;
7. Contractor also assures that it will comply with 29 CFR Part 37 and all other regulations implementing the laws listed above. This assurance applies to Contractor's operation of the WIA Title I – financially assisted program or activity, and to all contracts Contractor makes to carry out the WIA Title I – financially assisted program or activity. Contractor understands that DOEA and the United States have the right to seek judicial enforcement of the assurance.

D. CERTIFICATION REGARDING PUBLIC ENTITY CRIMES, SECTION 287.133, F.S.

Contractor hereby certifies that neither it, nor any person or affiliate of Contractor, has been convicted of a Public Entity Crime as defined in section 287.133, F.S., nor placed on the convicted vendor list. Contractor understands and agrees that it is required to inform Council immediately upon any change of circumstances regarding this status.

E. ASSOCIATION OF COMMUNITY ORGANIZATIONS FOR REFORM NOW (ACORN) FUNDING RESTRICTIONS ASSURANCE (Pub. L. 111-117).

As a condition of the Contract, Contractor assures that it will comply fully with the federal funding restrictions pertaining to ACORN and its subsidiaries per the Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117). The Continuing Appropriations Act, 2011, Sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.

F. SCRUTINIZED COMPANIES LISTS CERTIFICATION AND NO BOYCOTT OF ISRAEL CERTIFICATION, SECTION 287.135, F.S.

In accordance with section 287.135, F.S., Contractor hereby certifies that it has not been placed on the Scrutinized Companies that Boycott Israel List and that it is not engaged in a boycott of Israel.

If this Contract is in the amount of \$1 million or more, in accordance with the requirements of section 287.135, F.S., Contractor hereby certifies that it is not listed on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List. Both lists and that it is not engaged in business operations in Cuba or Syria.

Contractor understands that pursuant to section 287.135, F.S., the submission of a false certification may result in the Council terminating this Contract and the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs, including any costs for investigation that led to the finding of false certification.

If Contractor is unable to certify to any of the statements in this certification, Contractor shall attach an explanation to this Contract.

G. CERTIFICATION REGARDING DATA INTEGRITY COMPLIANCE FOR CONTRACT, AGREEMENTS, GRANTS, LOANS AND COOPERATIVE AGREEMENTS

1. The Contractor under this Contract has financial management systems capable of providing certain information, including: (1) accurate, current, and complete disclosure of the financial results of each grant-funded project or program in accordance with the prescribed reporting requirements; (2) the source and application of funds for all contract supported activities; and (3) the comparison of outlays with budgeted amounts for each award. The inability to process information in accordance with these requirements could result in a return of grant funds that have not been accounted for properly.
2. Management Information Systems used by the Contractor or any outside entity on which the Contractor is dependent for data that is to be reported, transmitted or calculated, have been assessed and verified to be capable of processing data accurately, including year-date dependent data. For those systems identified to be non-compliant, Contractors will take immediate action to assure data integrity.
3. If this Contract includes the provision of hardware, software, firmware, microcode or imbedded chip technology, the undersigned warrants that these products are capable of processing year-date dependent data accurately. All versions of these products offered by the Contractor (represented by the undersigned) and purchased by the state will be verified for accuracy and integrity of data prior to transfer.
4. In the event of any decrease in functionality related to time and date related codes and internal subroutines that impede the hardware or software programs from operating properly, the Contractor

agrees to immediately make required corrections to restore hardware and software programs to the same level of functionality as warranted herein, at no charge to the state, and without interruption to the ongoing business of the state, time being of the essence.

5. The Contractor under this Contract warrant their policies and procedures include a disaster plan to provide for service delivery to continue in case of an emergency including emergencies arising from data integrity compliance issues.

H. VERIFICATION OF EMPLOYMENT STATUS CERTIFICATION

As a condition of contracting with the Council, Contractor certifies the use of the U.S. Department of Homeland Security's E-verify system to verify the employment eligibility of all new employees hired by Contractor during the contract term to perform employment duties pursuant to this Contract.

This certification is a material representation of fact upon which reliance was placed when this Contract was made or entered into. Submission of this certification is a prerequisite for making or entering into this Contract imposed by OMB Circulars A-102 and 2 CFR Part 200, and 215 (formerly OMB Circular A-110).

I. RECORDS AND DOCUMENTATION

The Contractor agrees to make available to Council staff and/or party designated by the Council any and all contract related records and documentation. The Contractor shall ensure the collection and maintenance of all program related information and documentation of any such system designated by the Council. Maintenance includes valid exports and backups of all data and systems according to Council standards.

J. CERTIFICATION REGARDING INSPECTION OF PUBLIC RECORDS

1. In addition to the requirements of Sections 10.1 of the Master Contract, and 119.0701(3) and (4) F.S., and any other applicable law, if a civil action is commenced as contemplated by section 119.0701(4), F.S., and the Council is named in the civil action, Contractor agrees to indemnify and hold harmless the Council for any costs incurred by the Council, and any attorneys' fees assessed or awarded against the Council from a Public Records Request made pursuant to Chapter 119, F.S., concerning this Contract or services performed thereunder.
 - a. Notwithstanding section 119.0701, F.S., or other Florida law, this section is not applicable to contracts executed between the Council and state agencies or subdivisions defined in section 768.28(2), F.S.
2. Section 119.01(3), F.S., states if public funds are expended by an agency in payment of dues or membership contributions for any person, corporation, foundation, trust, association, group, or other organization, all the financial, business, and membership records of such an entity which pertain to the public agency (Florida Department of Elder Affairs) are public records. Section 119.07, F.S., states that every person who has custody of such a public record shall permit the record to be inspected and copied by any person desiring to do so, under reasonable circumstances.

Additionally, I certify this organization does _____ does not _____ provide for institutional memberships.

Contractor's signature below attests that records pertaining to the dues or membership application by the Council are available of inspection if applicable, as stated above.

By signing below, Contractor certifies the representations outlined in parts A through I above, are true and correct.

Signature and Title of Authorized Representative

Date

City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging
Contractor

227 NW 2nd Street
Deerfield Beach, FL 33441

ATTACHMENT VII**ASSURANCES—NON-CONSTRUCTION PROGRAMS**

Public reporting burden for this collection of information is estimated to average 45, minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget. Paperwork Reduction Project (0348-0043), Washington, DC 20503.

PLEASE DO NOT RETURN YOUR COMPLETED FORM TO THE OFFICE OF MANAGEMENT AND BUDGET, SEND IT TO THE ADDRESS PROVIDED BY THE SPONSORING AGENCY.

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project cost) to ensure proper planning, management, and completion of the project described in this application.
2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.
3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.
4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.
5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §4728-4763) relating to prescribed standards for merit systems for programs funded under one of the 19 statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).
6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. §794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. § 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) § 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. § 290 dd-3 and 290 ee 3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.
7. Will comply, or has already complied, with the requirements of Titles II and III of the uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.
8. Will comply, as applicable, with the provisions of the Hatch Act (5 U.S.C. §1501-1508 and 7324-7328), which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §276a to 276a-7), the Copeland Act (40 U.S.C. 276c and 18 U.S.C. §874) and the Contract Work Hours and Safety Standards Act (40 U.S.C. § 327-333), regarding labor standards for federally assisted construction sub agreements.
10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is \$10,000.00 or more.
11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clean Air Act of 1955, as amended (42 U.S.C. §7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).
12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §1721 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.
13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. §470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. §469a-1 et seq.).
14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.
15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. §2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.
16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §4801 et seq.), which prohibits the use of lead-based paint in construction or rehabilitation of residence structures.
17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act Amendments of 1996 and 2 CFR Part 200.
18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging	DATE SUBMITTED

ATTACHMENT VIII

**STATE OF FLORIDA DEPARTMENT OF ELDER AFFAIRS
CIVIL RIGHTS COMPLIANCE CHECKLIST**

City of Deerfield Beach, Florida / Northeast Focal Point Senior Center dba Department of Active Aging	County Broward	AAA/Contractor
227 NW 2nd Street	Completed By	
Deerfield Beach, FL 33441	Date	Phone 954-480-4449

PART I. READ THE ATTACHED INSTRUCTIONS FOR ILLUSTRATIVE INFORMATION, WHICH WILL HELP YOU IN THE COMPLETION OF THIS FORM.

1. Briefly describe the geographic area served by the program/facility and the type of service provided:

2. POPULATION OF AREA SERVED. Source of data:

Total #	% White	% Black	% Hispanic	% Other	% Female		
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3. STAFF CURRENTLY EMPLOYED. Effective date:

Total #	% White	% Black	% Hispanic	% Other	% Female	% Disabled	
---------	---------	---------	------------	---------	----------	------------	--

4. CLIENTS CURRENTLY ENROLLED OR REGISTERED. Effective date:

Total #	% White	% Black	% Hispanic	% Other	% Female	% Disabled	% Over 40
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5. ADVISORY OR GOVERNING BOARD, IF APPLICABLE.

Total #	% White	% Black	% Hispanic	% Other	% Female	% Disabled	
---------	---------	---------	------------	---------	----------	------------	--

PART II. USE A SEPARATE SHEET OF PAPER FOR ANY EXPLANATIONS REQUIRING MORE SPACE.

6. Is an Assurance of Compliance on file with the Council? If NA or NO, explain.

NA YES NO
☐ ☐ ☐

7. Compare the staff composition to the population. Is the staff representative of the population?

If NA or NO, explain.

NA YES NO
☐ ☐ ☐

8. Compare the client composition to the population. Are race and sex characteristics representative of the

Population? If NA or NO, explain.

NA YES NO
☐ ☐ ☐

9. Are eligibility requirements for services applied to clients and applicants without regard to race, color, national origin, sex, age, religion, or disability? If NA or NO, explain.

NA YES NO
☐ ☐ ☐

10. Are all benefits, services, and facilities available to applicants and participants in an equally effective manner regardless of race, sex, color, age, national origin, religion, or disability? If NA or NO, explain.

NA YES NO
☐ ☐ ☐

11. For in-patient services, are room assignments made without regard to race, color, national origin, or disability? If NA or NO, explain.

NA YES NO
☐ ☐ ☐

12. Is the program/facility accessible to non-English speaking clients? If NA or NO, explain. NA YES NO
☐ ☐
-
13. Are employees, applicants, and participants informed of their protection against discrimination?
If yes, how? Verbal ☐ Written ☐ Poster ☐ If NA or NO, explain. NA YES NO
☐ ☐ ☐
-
14. Give the number and current status of any discrimination complaints regarding services or employment filed against the program/facility. NA NUMBER
☐ _____
-
15. Is the program/facility physically accessible to mobility, hearing, and sight-impaired individuals? If NA or NO, explain. NA YES NO
☐ ☐ ☐
-

PART III. THE FOLLOWING QUESTIONS APPLY TO PROGRAMS AND FACILITIES WITH 15 OR MORE EMPLOYEES

16. Has a self-evaluation been conducted to identify any barriers to serving disabled individuals, and to make any necessary modifications? If NO, explain. YES NO
☐ ☐
-
17. Is there an established grievance procedure that incorporates due process in the resolution of complaints? If NO, explain. YES NO
☐ ☐
-
18. Has a person been designated to coordinate Section 504 compliance activities? If NO, explain. YES NO
☐ ☐
-
19. Do recruitment and notification materials advise applicants, employees, and participants of nondiscrimination on the basis of disability? If NO, explain. YES NO
☐ ☐
-
20. Are auxiliary aids available to assure the accessibility of services to hearing and sight impaired individuals? If NO, explain. YES NO
☐ ☐
-

PART IV. FOR PROGRAMS OR FACILITIES WITH 50 OR MORE EMPLOYEES AND FEDERAL CONTRACTS OF \$50,000.00 OR MORE.

21. Do you have a written affirmative action plan? If NO, explain.
YES NO ☐ ☐
-

DOEA USE			
Reviewed By		In Compliance: YES NO*	
Program Office		*Notice of Corrective Action Sent ____/____/____	
Date	Telephone	Response Due ____/____/____	
On-Site/Virtual	Desk Review	Response Received ____/____/____	

Revised August 2010 Page 2 of 2

INSTRUCTIONS FOR THE CIVIL RIGHTS COMPLIANCE CHECKLIST

1. Describe the geographic service area such as a district, county, city, or other locality. If the program/facility serves a specific target population such as adolescents, describe the target population. Also, define the type of service provided.
2. Enter the percent of the population served by race and sex. The population served includes persons in the geographical area for which services are provided such as a city, county or other regional area. Population statistics can be obtained from local chambers of commerce, libraries, or any publication from the 1980 Census containing Florida population statistics. Include the source of your population statistics. ("Other" races include Asian/Pacific Islanders and American Indian/Alaskan Natives.)
3. Enter the total number of full-time staff and their percent by race, sex, and disability. Include the effective date of your summary.
4. Enter the total number of clients who are enrolled, registered, or currently served by the program or facility, and list their percent by race, sex, and disability. Include the date that enrollment was counted.
5. Enter the total number of advisory board members and their percent by race, sex, and disability. If there is no advisory or governing board, leave this section blank.
6. Each recipient of federal financial assistance must have on file an assurance that the program will be conducted in compliance with all nondiscriminatory provisions as required in 45 CFR 80. This is usually a standard part of the contract language for DOEA recipients and their sub-grantees, 45 CFR 80.4 (a).
7. Is the race, sex, and national origin of the staff reflective of the general population? For example, if 10% of the population is Hispanic, is there a comparable percentage of Hispanic staff?
8. Where there is a significant variation between the race, sex or ethnic composition of the clients and their availability in the population, the program/facility has the responsibility to determine the reasons for such variation and take whatever action may be necessary to correct any discrimination. Some legitimate disparities may exist when programs are sanctioned to serve target populations such as elderly or disabled persons, 45 CFR 80.3 (b) (6).
9. Do eligibility requirements unlawfully exclude persons in protected groups from the provision of services or employment? Evidence of such may be indicated in staff and client representation (Questions 3 and 4) and also through on-site record analysis of persons who applied but were denied services or employment, 45 CFR 80.3 (a) and 45 CFR 80.1 (b) (2).
10. Participants or clients must be provided services such as medical, nursing and dental care, laboratory services, physical and recreational therapies, counseling and social services without regard to race, sex, color, national origin, religion, age or disability. Courtesy titles, appointment scheduling, and accuracy of record keeping must be applied uniformly and without regard to race, sex, color, national origin, religion, age, or disability. Entrances, waiting rooms, reception areas, restrooms, and other facilities must also be equally available to all clients, 45 CFR 80.3 (b).
11. For in-patient services, residents must be assigned to rooms, wards, etc., without regard to race, color, national origin, or disability. Also, residents must not be asked whether they are willing to share accommodations with persons of a different race, color, national origin, or disability, 45 CFR 80.3 (a).
12. The program/facility and all services must be accessible to participants and applicants, including those persons who may not speak English. In geographic areas where a significant population of non-English speaking people live, program accessibility may include the employment of bilingual staff. In other areas, it is sufficient to have

a policy or plan for service, such as a current list of names and telephone numbers of bilingual individuals who will assist in the provision of services, 45 CFR 80.3 (a).

13. Programs/facilities must make information regarding the nondiscriminatory provisions of Title VI available to their participants, beneficiaries, or any other interested parties. This should include information on their right to file a complaint of discrimination with either the Council, the State of Florida, Department of Elder Affairs, or the U.S. Department of HHS. The information may be supplied verbally or in writing to every individual, or may be supplied through the use of an equal opportunity policy poster displayed in a public area of the facility, 45 CFR 80.6 (d).
14. Report number of discrimination complaints filed against the program/facility. Indicate the basis, e.g., race, color, creed, sex, age, national origin, disability, retaliation; the issues involved, e.g., services or employment, placement, termination, etc. Indicate the civil rights law or policy alleged to have been violated along with the name and address of the local, state, or federal agency with whom the complaint has been filed. Indicate the current status, e.g., settled, no reasonable cause found, failure to conciliate, failure to cooperate, under review, etc.
15. The program/facility must be physically accessible to disabled individuals. Physical accessibility includes designated parking areas, curb cuts or level approaches, ramps and adequate widths to entrances. The lobby, public telephone, restroom facilities, water fountains, information, and admissions offices should be accessible. Door widths and traffic areas of administrative offices, cafeterias, restrooms, recreation areas, counters, and serving lines should be observed for accessibility. Elevators should be observed for door width, and Braille or raised numbers. Switches and controls for light, heat, ventilation, fire alarms and other essentials should be installed at an appropriate height for mobility impaired individuals.
16. Section 504 of the Rehabilitation Act of 1973 requires that a recipient of federal financial assistance conduct a self-evaluation to identify any accessibility barriers. Self-evaluation is a four-step process:
 - a. With the assistance of a disabled individual/organization, evaluate current practices and policies which do not comply with Section 504.
 - b. Modify policies and practices that do not meet Section 504 requirements.
 - c. Take remedial steps to eliminate any discrimination that has been identified.
 - d. Maintain self-evaluation on file. (This checklist may be used to satisfy this requirement if these four steps have been followed.), 45 CFR 84.6.
17. Programs or facilities that employ 15 or more persons must adopt grievance procedures that incorporate appropriate due process standards and provide for the prompt and equitable resolution of complaints alleging any action prohibited by Section 504.45 CFR 84.7 (b).
18. Programs or facilities that employ 15 or more persons must designate at least one person to coordinate efforts to comply with Section 504.45 CFR 84.7 (a).
19. Continuing steps must be taken to notify employees and the public of the program/facility's policy of nondiscrimination on the basis of disability. This includes recruitment material, notices for hearings, newspaper ads, and other appropriate written communication, 45 CFR 84.8 (a).
20. Programs/facilities that employ 15 or more persons must provide appropriate auxiliary aids to persons with impaired sensory, manual, or speaking skills where necessary. Auxiliary aids may include, but are not limited to, interpreters for hearing impaired individuals, taped or Braille materials, or any alternative resources that can be used to provide equally effective services, (45 CFR 84.52 (d)).
21. Programs/facilities with 50 or more employees and \$50,000.00 in federal contracts must develop, implement, and maintain a written affirmative action compliance program in accordance with Executive Order 11246. 41 CFR 60 and Title VI of the Civil Rights Act of 1964, as amended.

ATTACHMENT IX



Ron DeSantis
Governor

Richard Prudom
Secretary

BACKGROUND SCREENING

Attestation of Compliance - Employer

AUTHORITY: This form is required annually of all employers to comply with the attestation requirements set forth in section 435.05(3), Florida Statutes.

- The term "employer" means any person or entity required by law to conduct background screenings, including but not limited to, Area Agencies on Aging/Aging and Disability Resource Centers, Lead Agencies, and Service Providers that contract directly or indirectly with the Department of Elder Affairs (DOEA), and any other person or entity which hires employees or has volunteers in service who meet the definition of a direct service provider. See §§ 435.02, 430.0402, Fla. Stat.
- A direct service provider is "a person 18 years of age or older who, pursuant to a program to provide services to the elderly, has direct, face-to-face contact with a client while providing services to the client and has access to the client's living area, funds, personal property, or personal identification information as defined in s. 817.568. The term includes coordinators, managers, and supervisors of residential facilities and volunteers." § 430.0402(1)(b), Fla. Stat.

ATTESTATION:

As the duly authorized representative of

Employer Name

located at

Street Address

City

State

ZIP code

I, _____ do hereby affirm under penalty of

Name of Representative

perjury that the above named employer is in compliance with the provisions of Chapter 435 and section 430.0402, Florida Statutes, regarding level 2 background screening.

Signature of Representative

Date



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1082

Agenda Date: 2/15/2022

Status: CONSENT - AGREEMENTS &
EXPENDITURE REQUESTS

In Control: City Commission

Title

Resolution 2022/ - A Resolution of the City Commission of the City of Deerfield Beach, Florida, approving Congregate Meal Site Agreements with Human Services Network, Inc. dba Meals on Wheels South Florida for the Distribution of meals to seniors at the Center for Active Aging/Senior Center and the Adult Day Care Center; authorizing the City Manager to execute the agreements; providing for implementation and an effective date.

Recommended Action

Commission to vote on Resolution

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Background/History

The Center for Active Aging/Senior Center and the Adult Day Care Center serve as a congregate meal sites for seniors 60 years old and older, and for adult day care participants from 8:30 am - 12:30 pm, with lunches served Monday through Friday between 11:30 am - 12:30 pm. Meals on Wheels are provided under the Federal Older American's Act Title IIIC and administered by Meals on Wheels of South Florida.

Current Activity

The attached agreements provide for Meals on Wheels South Florida ("MOWSOFL") to provide meals at the Center for Active Aging/ Senior Center and the Adult Day Care Center for eligible participants (collectively, the "Agreements"). The Agreements are for terms of five years, with five-year renewals, and may be terminated by either party upon 60 days' written notice. This is a partnership with MOWSOFL, in which the City provides a space for proper serving of meals, along with other supportive services, and MOWSOFL provides meals to eligible participants.

Recommend

Approval.

RESOLUTION NO. 2022/

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING CONGREGATE MEAL SITE AGREEMENTS WITH HUMAN SERVICES NETWORK, INC. DBA MEALS ON WHEELS SOUTH FLORIDA FOR THE DISTRIBUTION OF MEALS TO SENIORS AT THE CENTER FOR ACTIVE AGING/SENIOR CENTER AND THE ADULT DAY CARE CENTER; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENTS; PROVIDING FOR IMPLEMENTATION AND AN EFFECTIVE DATE

WHEREAS, the Center for Active Aging/Senior Center and the Adult Day Care Center (collectively, the “Centers”) serve as a congregate meal sites for seniors 60 years old and older, and for adult day care participants from 8:30 am - 12:30 pm, with lunches served Monday through Friday between 11:30 am - 12:30 pm (the “Services”); and

WHEREAS, Meals on Wheels are provided under the Federal Older American's Act Title IIIC and administered by Human Services Network, Inc. dba Meals on Wheels of South Florida (“Meals on Wheels”); and

WHEREAS, City staff recommends approval of Congregate Meal Site Agreements with Meals on Wheels, attached as Exhibits “A” and “B,” for the Services at the Centers (collectively, the “Agreements”); and

WHEREAS, the Agreements are for five year terms, with five-year renewals, and may be terminated by either party upon 60 days’ notice; and

WHEREAS, the City Commission believes that it is in the best interest of the City to approve and authorize execution of the Agreements with Meals on Wheels, attached as Exhibits “A” and “B,” for the Services at the Centers.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part of this Resolution.

Section 2. The City Commission hereby approves the Agreements with Meals on Wheels, attached as Exhibits “A” and “B,” for the Services at the Centers.

Section 3. The City Commission hereby authorizes the City Manager to execute the Agreements, attached as Exhibits “A” and “B,” together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The appropriate City officials are authorized to do all things necessary to carry out the aims of this Resolution.

Section 5. This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

CONGREGATE MEAL SITE AGREEMENT
On Behalf of
MEALS ON WHEELS SOUTH FLORIDA

This agreement, made and entered into on (date) FEBRUARY 15, 2022, in Broward County, Florida by and between the Human Services Network, Inc., DBA: MEALS ON WHEELS SOUTH FLORIDA, hereinafter referred to as MOWSOFLO, and CITY OF DEERFIELD BEACH/N.E. FOCAL POINT ADULT DAY CARE CENTER, hereinafter referred to as Organization.

WITNESSETH:

WHEREAS, MOWSOFLO is the sponsoring agency of the Senior Nutrition Program providing meals through the provisions of the Older Americans Act for Broward County's senior residents; and

WHEREAS, Organization shares the concern for the nutritional welfare of Broward County's senior residents and having space suitable for use as a meal site for the Nutrition Program and desires to make available said space to the program.

BE IT THEREFORE mutually agreed as follows:

1. That the Organization has agreed that MOWSOFLO will provide meals at the facility located at 301 N. W. 2ND AVENUE, DEERFIELD BEACH, FL 33441 for the eligible participants of the Community/Senior Center.
2. That MOWSOFLO represents and assures that this location will not be used by MOWSOFLO and its participants for any purpose other than those associated with the services required by the Senior Nutrition Program.
3. That MOWSOFLO is sensitive to the vulnerability of the elderly population and therefore does not allow outside groups/organizations to make presentations to the participants of the Nutrition Program unless an in-service Agreement has been signed by both MOWSOFLO and the Organization.
4. That all persons aged sixty (60) and over, their (unpaid) Caregivers and program Volunteers, regardless of residency, are eligible to participate in the Senior Nutrition Program.
5. That the Organization acknowledges that the policies and procedures established by MOWSOFLO must be followed by each Senior Nutrition Center in order to comply with the Older American's Act requirements.
6. That the **Organization** shall be responsible for the following:
 - a. Procure and carry, at its own expense, premises liability insurance up to \$1,000,000.00.
 - b. Donating space that is adequate, safe and environmentally comfortable and providing adequate time for the proper serving of the meals. The established days and hours of the Nutrition Service are (days) MONDAY TO FRIDAY // (hours) 8:30 AM – 12:30 PM and the space designated for the nutrition service is located in the dining area, and occupies 4,400 sq. ft.
 - c. Providing access to telephone, computers (sending and receiving emails), printers and a facsimile machine.
 - d. Ensuring that all clients and/or caregivers are informed of the MOWSOFLO services provided to facility.
 - e. Providing space for MOWSOFLO to display signs as required by the Older American's Act during the meal service.

- f. Providing for removal and disposal of garbage.
- g. Providing assurance that all sanitation needs and requirements, as set forth by the Administrative Code for the State of Florida and the DoEA Programs and Services Manual, are followed.
- h. Subject to limitations as provided in Section 768.28, Fla Stat, and to the extent provided by law, the Organization shall be responsible for all incidents or accidents occurring outside the designated space and/or established hours will be the responsibility of the Organization. Nothing herein shall constitute a waiver of the Organization's entitlement to sovereign immunity.
- i. Ensuring the coordination of activities so as not to interfere with the Senior Nutrition Program serving time.
- j. A cabinet with lock must be provided for storage of supplies. Understanding that supplies delivered (including but not limited to aprons, gloves, plates, flatware, etc.) are for the meal service only and not the daily operational use of the Organization.
- k. The payment of any charges, costs or fees incurred in the form of utilities (including water, air, heat, electricity or other utilities), garbage pickup and day to day maintenance of the premises.
- l. The payment for any repairs, maintenance, etc. deemed necessary by any governmental agency including but not limited to, health department, fire inspections and building inspection.
- m. The identification of MOWSOFLO as a service provider in written brochures and publicity materials when the meal/nutrition program is mentioned.
- n. A minimum of seven (7) days advance notice to MOWSOFLO of the schedule of Holidays and any other days the facility will be closed, serving alternate meals on their own behalf, or be otherwise not available to the Senior Nutrition Program. Failure to provide this notice may result in the organization being billed for the unserved meals.
- o. Managing the Organization and Client's own transportation needs.
- p. **Providing a designated Meal Coordinator to perform duties as defined in Site Administrators Manual including but not limited to the following:**
 - i. Completing required Initial and Annual DOEA Assessment Forms (701-S and 701-C) for each participant in a timely manner.
 - ii. Completing Daily Rosters to accurately reflect the actual eligible participants receiving services and the numbers of meals served.
 - iii. Documenting reservations for next day's meals. Daily meal orders, indicating the number of meals required, will be called into MOWSOFLO office no later than **11:30 AM** am/pm the day before meal service.
 - iv. Receiving and serving meals, including the accurate temperature of arrival and serving times of meals.
 - v. Completing all required paperwork/documentation and returning to the MOWSOFLO office in a timely manner as expressed in the manual.
 - vi. Encouraging and collecting meal contributions and ensuring the safe counting and secure delivery of these daily contributions to the Caterer on a daily basis.

- vii. Attending scheduled meetings and trainings at least twice per year, as required by MOWSOFLO and our funding sources.
 - viii. Cleaning surface and dining areas utilized by the program.
7. That **MOWSOFLO** shall be responsible for the following:
- a. Assuring that all food service and dietary standards required by the Administrative Code for the State of Florida and the DoEA Programs and Services Manual are followed.
 - b. Assuring that each daily meal provided will meet current guidelines for Healthy Americans and current DoEA Service Manual Guidelines.
 - c. Assuring that the service area will be inspected by the MOWSOFLO Nutritionist and Staff and that it meets current Food Service Establishment Inspection criteria using the monitoring form designated by the DoEA.
 - d. Providing Nutrition Education in a manner appropriate to the clients attending the center on a monthly basis.
 - e. Recruiting volunteers to assist in the meal service;
 - f. Providing training for the Center's designated Meal Coordinator regarding the proper completion of the client roster, food check-in and food handling, and each recruited volunteer on food safety, food handling and/or work place safety.
8. MOWSOFLO staff Nutritionist is available for consultation with staff, participants and caregivers to discuss participant's diet in relation to the meal provided by MOWSOFLO at the facility.
9. MOWSOFLO shall indemnify and hold harmless the Organization against any food related claims concerning food originating from MOWSOFLO for daily consumption.
10. MOWSOFLO will provide an allocation of meals per day in accordance with its budget and the current needs of the center. Should this need change, it is the responsibility of the Organization to contact MOWSOFLO and discuss needs.
11. That MOWSOFLO further agrees to procure and carry, at its own expense, liability insurance in the sum of \$1,000,000.00.
12. Site Administrator's Manual will be attached as an addendum.

MOWSOFLO follows local, state, and federal guidelines intended to promote public health and safety and to limit the potential spread of communicable disease including but not limited to influenza and COVID-19. Participation in any congregate activities, including the meal program, may increase the risk of possible exposure to and illness from communicable disease, including but not limited to influenza and COVID-19. As such, both MOWSOFLO and the Organization agree to follow all safety and precautionary guidelines and recommendations as set by local, state and federal agencies to protect the health and well-being of clients, volunteers, staff and the general public.

The term of this agreement shall be for a period of five years from the date it is completely executed by both parties. The Agreement shall be automatically renewed on a five year basis if not terminated as stated herein. Either party has the right to terminate this agreement upon sixty (60) days written notice at any time during the terms of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the purpose therein expressed the day and year first above written.

Signed, sealed and delivered in the presence of:

Executive Director
Meals On Wheels South Florida

Date_____

Host Agency

Date_____

Witness
Meals on Wheels South Florida

Date_____

Host Agency

Date_____

Witness
Meals on Wheels South Florida

Date_____

Host Agency Witness

Date_____

CONGREGATE MEAL SITE AGREEMENT

On Behalf of

MEALS ON WHEELS SOUTH FLORIDA

This agreement, made and entered into on (date) **FEBRUARY 15, 2022**, in Broward County, Florida by and between the Human Services Network, Inc., DBA: **MEALS ON WHEELS SOUTH FLORIDA**, hereinafter referred to as MOWSOFLO, and **CITY OF DEERFIELD BEACH/N.E. FOCAL POINT SENIOR CENTER DBA CENTER FOR ACTIVE AGING**, hereinafter referred to as Organization.

WITNESSETH:

WHEREAS, MOWSOFLO is the sponsoring agency of the Senior Nutrition Program providing meals through the provisions of the Older Americans Act for Broward County's senior residents; and

WHEREAS, Organization shares the concern for the nutritional welfare of Broward County's senior residents and having space suitable for use as a meal site for the Nutrition Program and desires to make available said space to the program.

BE IT THEREFORE mutually agreed as follows:

1. That the Organization has agreed that MOWSOFLO will provide meals at the facility located at: **227 N. W. 2ND STREET, DEERFIELD B EACH, FL 33441** for the eligible participants of the Community/Senior Center.
2. That MOWSOFLO represents and assures that this location will not be used by MOWSOFLO and its participants for any purpose other than those associated with the services required by the Senior Nutrition Program.
3. That MOWSOFLO is sensitive to the vulnerability of the elderly population and therefore does not allow outside groups/organizations to make presentations to the participants of the Nutrition Program unless an in-service Agreement has been signed by both MOWSOFLO and the Organization.
4. That all persons aged sixty (60) and over, their (unpaid) Caregivers and program Volunteers, regardless of residency, are eligible to participate in the Senior Nutrition Program.
5. That the Organization acknowledges that the policies and procedures established by MOWSOFLO must be followed by each Senior Nutrition Center in order to comply with the Older American's Act requirements.
6. That the **Organization** shall be responsible for the following:
 - a. Procure and carry, at its own expense, premises liability insurance up to \$1,000,000.00.
 - b. Donating space that is adequate, safe and environmentally comfortable and providing adequate time for the proper serving of the meals. The established days and hours of the Nutrition Service are **MONDAY TO FRIDAY** (days) // **8:30 AM – 12:30 PM** (hours) and the space designated for the nutrition service is located in the dining area, and occupies **4,800** sq. ft.
 - c. Providing access to telephone, computers (sending and receiving emails), printers and a facsimile machine.
 - d. Ensuring that all clients and/or caregivers are informed of the MOWSOFLO services provided to facility.

- e. Providing space for MOWSOFLO to display signs as required by the Older American's Act during the meal service.
- f. Providing for removal and disposal of garbage.
- g. Providing assurance that all sanitation needs and requirements, as set forth by the Administrative Code for the State of Florida and the DoEA Programs and Services Manual, are followed.
- h. Subject to limitations as provided in Section 768.28, Fla Stat, and to the extent provided by law, the Organization shall be responsible for all incidents or accidents occurring outside the designated space and/or established hours will be the responsibly of the Organization. Nothing herein shall constitute a waiver of the Organization's entitlement to sovereign immunity.
- i. Ensuring the coordination of activities so as not to interfere with the Senior Nutrition Program serving time.
- j. A cabinet with lock must be provided for storage of supplies. Understanding that supplies delivered (including but not limited to aprons, gloves, plates, flatware, etc.) are for the meal service only and not the daily operational use of the Organization.
- k. The payment of any charges, costs or fees incurred in the form of utilities (including water, air, heat, electricity or other utilities), garbage pickup and day to day maintenance of the premises.
- l. The payment for any repairs, maintenance, etc. deemed necessary by any governmental agency including but not limited to, health department, fire inspections and building inspection.
- m. The identification of MOWSOFLO as a service provider in written brochures and publicity materials when the meal/nutrition program is mentioned.
- n. A minimum of seven (7) days advance notice to MOWSOFLO of the schedule of Holidays and any other days the facility will be closed, serving alternate meals on their own behalf, or be otherwise not available to the Senior Nutrition Program. Failure to provide this notice may result in the organization being billed for the unserved meals.
- o. Managing the Organization and Client's own transportation needs.

7. That **MOWSOFLO** shall be responsible for the following:

- a. Providing a designated Meal Coordinator to perform duties as defined in Site Administrators Manual including but not limited to the following:
 - i. Completing required Initial and Annual DoEA Assessment Forms (701-S and 701-C) for each participant in a timely manner.
 - ii. Completing Daily Rosters to accurately reflect the actual eligible participants receiving services and the numbers of meals served.
 - iii. Completing all required paperwork/documentation and returning to the MOWSOFLO office in a timely manner as expressed in the manual.

- iv. Documenting reservations for next day's meals. Daily meal orders, indicating the number of meals required, will be called into MOWSOFLO office no later than **11:30 am**/pm the day before meal service.
 - v. Receiving and serving meals, including the accurate temperature of arrival and serving times of meals.
 - vi. Encouraging and collecting meal contributions and ensuring the safe counting and secure delivery of these daily contributions to the Caterer driver on a daily basis.
 - vii. Attending scheduled meetings and trainings at least twice per year, as required by MOWSOFLO and our funding sources.
 - viii. Cleaning surface and dining areas utilized by the program,
 - ix. Following all policies and procedures as set forth in the Site Administrator Manual.
- b. Assuring that all food service and dietary standards required by the Administrative Code for the State of Florida and the DoEA Programs and Services Manual are followed.
 - c. Assuring that each daily meal provided will meet current guidelines for Healthy Americans and current DoEA Service Manual Guidelines.
 - d. Assuring that the service area will be inspected by the MOWSOFLO Nutritionist and Staff and that it meets current Food Service Establishment Inspection criteria using the monitoring form designated by the DoEA.
 - e. Providing Nutrition Education in a manner appropriate to the clients attending the center on a monthly basis.
 - f. Recruiting volunteers to assist in the meal service.
 - g. Providing training for the Center's designated Meal Coordinator regarding the proper completion of the client roster, food check-in and food handling and each recruited volunteer on food safety, food handling and/pr work place safety.
- 8. MOWSOFLO staff Nutritionist is available for consultation with staff, participants and caregivers to discuss participant's diet in relation to the meal provided by MOWSOFLO at the facility.
 - 9. MOWSOFLO shall defend, indemnify and hold harmless the Organization against any food related claims, damages, costs attorney's fees, and related expense incurred at both the trial and appellate levels resulting from actions taken by MOWSOFLO with respect to this Agreement.
 - 10. MOWSOFLO will provide an allocation of meals per day in accordance with its budget and the current needs of the center. Should this need change, it is the responsibility of the Organization to contact MOWSOFLO and discuss needs.
 - 11. That MOWSOFLO further agrees to procure and carry, at its own expense, liability insurance in the sum of \$1,000,000.00.
 - 12. Site Administrator's Manual will be attached to each contract.

MOWSOFLO follows local, state, and federal guidelines intended to promote public health and safety and to limit the potential spread of communicable disease including but not limited to influenza and COVID-19. Participation in any congregate activities, including the meal program, may increase the risk of possible exposure to and illness from communicable disease, including but not limited to influenza and COVID-19. As such, both MOWSOFLO and the Organization agree to follow all safety and precautionary guidelines and recommendations as set by Local, State and Federal Agencies to protect the health and well-being of clients, volunteers, staff and the general public.

The term of this agreement shall be for a period of five years from the date it is completely executed by both parties. The Agreement shall be automatically renewed on a five year basis if not terminated as stated herein. Either party has the right to terminate this agreement upon sixty (60) days written notice at any time during the terms of this agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement for the purpose therein expressed the day and year first above written.

Signed, sealed and delivered in the presence of:

Executive Director
Meals on Wheels South Florida

Date _____

Host Agency

Date _____

Witness
Meals on Wheels South Florida

Date _____

Host Agency

Date _____

Witness
Meals on Wheels South Florida

Date _____

Host Agency Witness

Date _____



City of Deerfield Beach

150 NE 2nd Ave
Deerfield Beach, FL
33441
954-480-4200

Face Sheet File Number: I.D. 2022-1067

Agenda Date: 2/15/2022

Status: DEPARTMENTAL BUSINESS

In Control: City Commission

Title

ORDINANCE 2022/ - AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF DEERFIELD BEACH AND THE FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY; AUTHORIZING AN EXTENSION OF TIME FOR THE DEVELOPMENT OF FOUR ACRES OF THE FLORIDA ATLANTIC RESEARCH & DEVELOPMENT AUTHORITY PROJECT IN THE CITY OF DEERFIELD BEACH; PROVIDING FOR EXECUTION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE.

Recommended Action

Commission to vote on Ordinance and set public hearing for February 15, 2022

Voting Requirement

Adoption requires a 3/5 vote of the City Commission

Fiscal Impact

Costs: N/A. City to receive Extension Fee of \$3.2 Million subject to the terms of the Letter Agreement.

Background/History

On June 4, 2003, the City of Deerfield Beach entered into a lease agreement with the Florida Atlantic Research & Development Authority ("FARDA") for the lease of certain real property in the City of Deerfield Beach for a Research and Development Park associated with Florida Atlantic University the "Lease Agreement"). Two parcels were leased to FARDA, an approximately ten acre parcel (the Initial Property") and an approximately four acre parcel (the "Additional Property"). The Lease Agreement made the Initial Property and the Additional Property each subject to requirements for development within a certain period of time. The development requirements for the Initial Property have been met. The development requirements for the Additional Property have not yet been met.

By Ordinance No. 2009/020, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional three years by approval of the Second Amendment to the Lease Agreement. By Ordinance No. 2011/031, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional three years by approval of the Third Amendment to the Lease Agreement. By Ordinance No. 2013/029, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional six years by approval of the Fourth Amendment to the Lease Agreement. By Ordinance No. 2019/018, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional one year by approval of the Fifth Amendment to the Lease Agreement. On August 17, 2020, the City Commission approved a Sixth Amendment to the Lease Agreement that provided for an additional nine-month extension of the Lease Agreement as to the Additional Property.

Current Activity

FARDA has indicated its subtenant, DRP Finance, LLC (“DRP”) desires to assign its interest in the sublease to GS Deerfield LLC, its successors or assigns (“GS”). On May 18, 2021, the City Commission approved a Seventh Amendment to Lease Agreement to provide that if GS acquires DRP’s interest in the sublease of the Additional Property, that GS shall have until March 15, 2022 to obtain a building permit for development of the Additional Property and a period of 18 months from obtaining such building permit to obtain a shell certificate of occupancy or similar permit, subject to any further extension due to force majeure.

GS has submitted a revised proposed building plan to the City and has requested an additional extension until January 11, 2023 to obtain a building permit for development of the Additional Property and a period of 18 months from obtaining such building permit to obtain a shell certificate of occupancy or similar permit, subject to any further extension due to force majeure (the “Extension”). FARDA and GS have requested the Extension, and GS has agreed to pay the City an extension fee in the amount of \$3,200,000 (the “Extension Fee”) in consideration for the Extension. The City and FARDA have negotiated an Eighth Amendment to the Lease Agreement, attached as Exhibit “A” (the “Eighth Amendment”), and the City has negotiated the Letter Agreement with GS, attached as Exhibit “B” (the “Letter Agreement”), which provides for the Extension and payment of the \$3,200,000 Extension Fee to the City (\$100,000 of which has already been received by the City) as follows: (i) \$1,100,000 within 5 business days of City’s execution of the Eighth Amendment, (ii) \$1,000,000 to the City simultaneously with the issuance of the first building permit for the Building, and (iii) an additional \$1,000,000 to the City simultaneously with the issuance of a certificate of occupancy for the Building.

If approved, the Extension granted in this Ordinance shall terminate and be null and void without any further action if any of the following occur: (i) if GS fails to pay the Extension Fee to the City as provided in the Letter Agreement, (ii) if GS fails to acquire DRP’s interest in the Additional Property by January 11, 2023, or (iv) if GS fails to obtain a building permit for development of the Additional Property consistent with the Letter Agreement by January 11, 2023, or fails to obtain a shell certificate of occupancy within 18 months from obtaining the building permit, subject to the terms in the Eighth Amendment.

Recommendation

Staff recommends consideration.

ORDINANCE NO. 2022/

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA, APPROVING THE EIGHTH AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE CITY OF DEERFIELD BEACH AND THE FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY; AUTHORIZING AN EXTENSION OF TIME FOR THE DEVELOPMENT OF FOUR ACRES OF THE FLORIDA ATLANTIC RESEARCH & DEVELOPMENT AUTHORITY PROJECT IN THE CITY OF DEERFIELD BEACH; PROVIDING FOR EXECUTION, SEVERABILITY, CONFLICTS, AND AN EFFECTIVE DATE

WHEREAS, on June 4, 2003, the City of Deerfield Beach entered into a lease agreement with the Florida Atlantic Research & Development Authority (“FARDA”) for the lease of certain real property in the City of Deerfield Beach for a Research and Development Park associated with Florida Atlantic University (the “Lease Agreement”); and

WHEREAS, two parcels were leased to FARDA, an approximately ten acre parcel (the “Initial Property”) and an approximately four acre parcel (the “Additional Property”); and

WHEREAS, the Lease Agreement made the Initial Property and the Additional Property each subject to requirements for development within a certain period of time; and

WHEREAS, the development requirements for the Initial Property have been met; and

WHEREAS, the development requirements for the Additional Property have not yet been met; and

WHEREAS, by Ordinance No. 2009/020, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional three years by approval of the Second Amendment to the Lease Agreement; and

WHEREAS, by Ordinance No. 2011/031, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional three years by approval of the Third Amendment to the Lease Agreement; and

WHEREAS, by Ordinance No. 2013/029, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional six years by approval of the Fourth Amendment to the Lease Agreement; and

WHEREAS, by Ordinance No. 2019/018, the time for FARDA to meet the development requirements for the Additional Property was extended for an additional one year by approval of the Fifth Amendment to the Lease Agreement; and

WHEREAS, on August 17, 2020, the City Commission approved a Sixth Amendment to the Lease Agreement that provided for an additional nine-month extension of the Lease Agreement as to the Additional Property; and

WHEREAS, FARDA has indicated its subtenant, DRP Finance, LLC (“DRP”) desires to assign its interest in the sublease to GS Deerfield LLC, its successors or assigns (“GS”); and

WHEREAS, on May 18, 2021, the City Commission approved a Seventh Amendment to Lease Agreement to provide that if GS acquires DRP’s interest in the sublease of the Additional Property, that GS shall have until March 15, 2022 to obtain a building permit for development of the Additional Property and a period of 18 months from obtaining such building permit to obtain a shell certificate of occupancy or similar permit, subject to any further extension due to force majeure; and

WHEREAS, GS has submitted a revised proposed building plan to the City and has requested an additional extension until January 11, 2023 to obtain a building permit for development of the Additional Property and a period of 18 months from obtaining such building permit to obtain a shell certificate of occupancy or similar permit, subject to any further extension due to force majeure (the “Extension”); and

WHEREAS, FARDA and GS have requested the Extension, and GS has agreed to pay the City an extension fee in the amount of \$3,200,000 (the “Extension Fee”) in consideration for the Extension; and

WHEREAS, the City and FARDA have negotiated an Eighth Amendment to the Lease Agreement, attached as Exhibit “A” (the “Eighth Amendment”), and the City has negotiated the Letter Agreement with GS, attached as Exhibit “B” (the “Letter Agreement”), which provides for the Extension and payment of the \$3,200,000 Extension Fee to the City (\$100,000 of which has already been received by the City) as follows: (i) \$1,100,000 within 5 business days of City’s execution of the Eighth Amendment, (ii) \$1,000,000 to the City simultaneously with the issuance of the first building permit for the Building, and (iii) an additional \$1,000,000 to the City simultaneously with the issuance of a certificate of occupancy for the Building; and

WHEREAS, the failure of GS to acquire DRP’s interest in the Additional Property by January 11, 2023, or for GS to obtain both a building permit on the Additional Property on or before January 11, 2023 and to complete (as evidenced by a certificate of occupancy relative to the “shell building” only) the building within 18 months of the issuance of the building permit consistent with the Letter Agreement, shall cause the Lease Agreement to be null and void as to the Additional Property and City shall take possession and control of the Additional Property and all rights of FARDA, DRP, GS, and their respective successors or assigns pursuant to the Lease Agreement shall be extinguished relative to the Additional Property; and

WHEREAS, in consideration of the Extension Fee, the potential for development on the Additional Property, and the provisions in the Eighth Amendment and the Letter Agreement, the

City Commission finds that it is in the best interest of the City to grant an additional Extension, subject to the terms and conditions set forth in the Eighth Amendment, attached as Exhibit “A,” and the Letter Agreement, attached as Exhibit “B”.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF DEERFIELD BEACH, FLORIDA AS FOLLOWS:

Section 1. The above referenced “Whereas” clauses are true and correct and made a part hereof.

Section 2. The Eighth Amendment to the Lease Agreement, attached as Exhibit “A,” providing for a deadline of January 11, 2023 for GS to obtain a building permit for development of the Additional Property and a period of 18 months from obtaining the building permit to obtain a shell certificate of occupancy, subject to the terms in the Eighth Amendment, is hereby approved. The Letter Agreement between the City and GS, attached as Exhibit “B”, is hereby approved.

Section 3. The Mayor and City Manager are authorized to execute the Eighth Amendment with FARDA, attached as Exhibit “A”, and the Letter Agreement with GS, attached as Exhibit “B”, both together with such non-substantial changes as are acceptable to the City Manager and approved as to form and legal sufficiency by the City Attorney.

Section 4. The Extension granted in this Ordinance shall terminate and be null and void without any further action if any of the following occur: (i) if GS fails to pay the Extension Fee to the City as provided in the Letter Agreement, (iii) if GS fails to acquire DRP’s interest in the Additional Property by January 11, 2023, or (iii) if GS fails to obtain a building permit for development of the Additional Property consistent with the Letter Agreement by January 11, 2023, or fails to obtain a shell certificate of occupancy within 18 months from obtaining the building permit, subject to the terms in the Eighth Amendment.

Section 5. If any word, phrase, clause, sentence, or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of any remaining portions of this Resolution.

Section 6. All ordinances and parts of ordinances, and all resolutions and parts of resolutions, in conflict with this Ordinance are repealed but only to the extent of such conflict.

Section 7. This Ordinance shall take effect immediately upon adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

CITY OF DEERFIELD BEACH

BILL GANZ, MAYOR

ATTEST:

SAMANTHA GILLYARD, CITY CLERK

EIGHTH AMENDMENT TO AGREEMENT

THIS EIGHTH AMENDMENT TO AGREEMENT (“Eighth Amendment”) dated the ____ day of _____, 2022, by and between CITY OF DEERFIELD BEACH, a Florida municipal corporation (the “City”) and FLORIDA ATLANTIC RESEARCH AND DEVELOPMENT AUTHORITY, its successors and assigns, a corporate body politic created pursuant to Chapter 159, Florida Statutes (the “Authority”) and DRP Finance, LLC, its successors and assigns (“DRP”).

W I T N E S S E T H :

WHEREAS, City and Authority entered into that certain Agreement dated as of June 4, 2003, recorded July 22, 2003 in Official Records Book 35650, at Page 17 of the Public Records of Broward County; as amended by that certain First Amendment to Agreement dated February 19, 2008 (the “First Amendment”); as further amended by that certain Second Amendment to Agreement dated September 17, 2009 (the “Second Amendment”); as further amended by that certain Third Amendment to Agreement dated July 27, 2011 (the “Third Amendment”); as further amended by that certain Fourth Amendment to Agreement dated October 8, 2013 (the “Fourth Amendment”); as further amended by that certain Fifth Amendment to Agreement dated August 20, 2019 (the “Fifth Amendment”); as further amended by that certain Sixth Amendment to Agreement dated August 21, 2020 (the “Sixth Amendment”); and as further amended by that certain Seventh Amendment to Agreement dated May 18, 2021 (the “Seventh Amendment”) (collectively the “Master Lease”); and

WHEREAS, the Master Lease presently has an outside date of March 15, 2022 to obtain a building permit for a building on the property described on **Exhibit A** (“Additional Property” or “Premises”); and

WHEREAS, the Authority has entered into a Sublease for the Additional Property pursuant to Land Lease – Phase 4 dated October 10, 2013, as amended, between DRP and the Authority (“Sublease”); and

WHEREAS, DRP desires to assign its interest in the Sublease to GS Deerfield LLC, its successors or assigns (“GS”), the City and the Authority consent to such assignment and GS has requested that the Master Lease be further amended to provide that if GS acquires the lessee’s interest in the Sublease, that GS shall have until January 11, 2023 to obtain a building permit for a building on the Additional Property and a period of eighteen (18) months from obtaining such building permit to obtain a shell certificate of occupancy or similar permit, subject in each case to any further extension due to force majeure; and

WHEREAS, this Eighth Amendment is conditioned on, and Authority acknowledges that City has relied upon, the covenants and promises made by the Authority and GS in connection herewith, including but not limited to the Letter Agreement referenced herein.

NOW, THEREFORE, in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt, adequacy and sufficiency of which is hereby acknowledged, the parties intending to be legally bound, hereby agree as follows:

1. The recitations set forth above are true and correct and are incorporated herein by this reference as if set forth fully.

2. Section 8 Development Limitation: Best Efforts of the Master Lease is hereby further amended to additionally provide as follows:

(i) Subject to extension due to inability of the Authority (or GS or their respective assigns) to obtain such building permit due to unusual delays of a governmental authority with jurisdiction issuing same upon being provided with a completed building permit application and supporting documents or to delays in obtaining a shell building permit due to documented delays beyond the reasonable control of lessee (and any party with an interest in the Sublease), in obtaining labor and materials, extraordinary weather conditions or delays in obtaining governmental inspections beyond the reasonable control of lessee (and any party with an interest in the Sublease) (a) the failure to obtain both a building permit on the Premises on or before January 11, 2023, and (b) to complete (as evidenced by a certificate of occupancy relative to the “shell building” only) said building within eighteen (18) months of the issuance of the building permit shall cause the Master Lease to be null and void as to the Additional Property and City shall take possession and control of said Additional Property and all rights of the Authority and its successors or assigns pursuant to this Agreement shall be extinguished relative to the Additional Property.

(ii) Notwithstanding any provisions to the contrary in the Master Lease, the Non-Disturbance Agreement or any other agreement concerning the Additional Property existing as of the date hereof, the Authority, DRP, and all other parties to such Non-Disturbance Agreement, and each of their respective successors and assigns, agree that there shall be no further extensions of the deadline (i.e., the Building Permit Date (as may be extended pursuant to Section 2(i) above)) to obtain a building permit as to the Additional Property as provided above. For clarity, the Authority, DRP, and all other parties in the Non-Disturbance Agreement, and each of their respective successors and assigns, agree that they shall not for any reason request nor be entitled to any further extensions of the time to obtain a building permit or shell certificate of occupancy for a building on the Additional Property as provided in this Eighth Amendment, except for extensions as provided in Section 2(i) above, subject to paragraph “3.” in this Eighth Amendment).

(iii) In the event a building permit for the Additional Property is not obtained by the Building Permit Date (as may be extended pursuant to Section 2(i) above), or upon the termination of this Agreement as to the Additional Property, whichever occurs first, the Authority, DRP, and all other parties to the Non-Disturbance Agreement, and each of their respective successors and assigns shall:

a. surrender and deliver up to City the Additional Property in its current state and condition and repair, reasonable wear and tear excepted, and free and clear of all subtenants, sub-subtenants, lettings, occupancies, liens, mortgages, and encumbrances;

b. voluntarily, knowingly, and intentionally waive each of their respective rights as to the Additional Property to cure any defaults, obtain a direct lease with the City, or any other rights that may extend the term of the Lease, Sublease, and Sub-Sublease under

the Master Lease, Sub-Lease Agreement, Sub-Sublease Agreement, or the Non-Disturbance Agreement, including all amendments thereto; and

c. execute and deliver a Voluntary Return of Additional Property to the City (attached as **Exhibit 1** to the Eighth Amendment to Master Lease), or any other documents reasonably necessary, in order to effectively surrender and return legal possession of the Additional Property to the City.

3. Notwithstanding anything contained in the Master Lease or this Eighth Amendment to the contrary, the time to obtain both a building permit on the Premises and to complete the building (as evidenced by a certification of occupancy relative to the “Shell Building” only) as set forth in Section 8 Development Limitation: Best Efforts of the Master Lease shall be null and void and the Master Lease shall terminate immediately as to the Additional Property if GS does not acquire the DRP’s or its assignee’s sublessee’s interest in the Sublease on or before the Building Permit Date, but such Master Lease termination shall not in any manner affect the obligations of the parties as set forth in paragraphs “(ii)” and “(iii)” above of this Eighth Amendment.

4. As an additional inducement to the City executing this Eighth Amendment, GS Deerfield, LLC has executed and delivered to the City a letter agreement dated January 31, 2022, as amended by letter agreement signed by GS Deerfield, LLC (the “Letter Agreement”) to pay the City certain consideration and to provide certain other representations as provided in the Letter Agreement. In the event of a default by GS under the Letter Agreement not cured within five (5) business days after written notice from the City to GS to cure a default regarding each additional contribution payment to the City required under the Letter Agreement, the City shall have the right to immediately terminate the Master Lease, as to the Additional Property and take immediate possession of the Additional Property free and clear of any interests of the Authority, DRP, GS, and their respective successors and assigns.

5. This Eighth Amendment shall be effective on the date last executed by the parties hereto, and may be executed in any number of counterparts, each of which, when executed, shall be deemed an original and all of which shall be deemed one and same instrument. Facsimile transmission signatures of this Amendment shall be deemed to be original signatures.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the parties have executed this Eighth Amendment as of the day and year first above written.

ATTEST:

CITY OF DEERFIELD BEACH, FLORIDA,
a Florida Municipal Corporation

_____, City Clerk

By: _____
Name: _____
Title: Mayor
Date: _____

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, the undersigned Notary Public in and for the State of Florida, on this _____ day of _____, 2022, by _____, Mayor of the City of Deerfield Beach, Florida, a Florida municipal corporation, who is personally known to be, or produced identification, and who did take an oath.

Notary Public, State of Florida

[CITY SIGNATURE PAGE]

FLORIDA ATLANTIC RESEARCH AND
DEVELOPMENT AUTHORITY, a corporate
body politic created pursuant to Chapter 159,
Florida Statutes

Witness: _____
Print Name: _____
Witness: _____
Print Name: _____

By: _____
Name: _____
Title: _____
Date: _____

STATE OF FLORIDA
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, the undersigned Notary Public in and for the State of Florida, on this ____ day of _____, 2022, by _____, _____ as Chairman of Florida Atlantic Research and Development Authority, a corporate body politic created pursuant to Chapter 159, Florida Statutes, who is personally known to me, or produced identification, and who did take an oath.

Notary Public, State of Florida

DRP Finance, LLC, a Delaware limited liability company

By: _____
Name: James D. Egan
Title: Authorized Agent
Date: _____

Witness: _____
Print Name: _____
Witness: _____
Print Name: _____

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, the undersigned Notary Public in and for the State of Florida, on this ____ day of _____, 2022, by _____, _____ as Authorized Agent of DRP Finance, LLC, who is personally known to me, or produced identification, and who did take an oath.

EXHIBIT A

The land referred to herein below is situated in the County of Broward, State of Florida, and described as follows:

That part of the Northwest 1/4 of Section 12, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows:

Commence at a found drill hole at the Northwest Corner of said Section 12; thence North 88°23'16" East along the North line of said Section 12 and the Baseline of Survey for S.W. 10th Street as shown on the Right of Way Parcel Sketch for Section No. 86070-2413/2455, a distance of 1,219.60 feet; thence South 01°36'44" West along a line at a right angle from the last described course, a distance of 120.00 feet to a point on the Southerly Existing Right of Way line for said S.W. 10th Street and the POINT OF BEGINNING; thence North 88°23'16" East along said Existing Right of Way line, a distance of 57.06 feet to the beginning of a curve concave Northwestwardly, having a chord bearing of South 45°53'38" West; thence Southwesterly along said curve, having a radius of 478.00 feet, through a central angle of 85°12'02" and an arc length of 710.80 feet to the end of said curve; thence South 88°29'38" West, a distance of 265.62 feet; thence South 76°29'05" West, a distance of 17.98 feet; thence North 71°35'35" East, a distance of 167.83 feet; thence North 34°59'38" East, a distance of 112.40 feet; thence North 20°38'29" East, a distance of 113.04 feet; thence North 01°36'20" West, a distance of 187.00 feet; thence North 85°39'30" East, a distance of 210.24 feet; thence North 88°23'16" East, a distance of 222.75 feet to the POINT OF BEGINNING.

Reserving unto Florida Atlantic Research and Development Authority, a body corporate and politic under the law of the State of Florida, all rights of access, egress, ingress, light, air and view along the following described line:

Commence at a found drill hole at the Northwest Corner of said Section 12; thence North 88°23'16" East along the North line of said Section 12 and the Baseline of Survey for said S.W. 10th Street, a distance of 516.32 feet; thence South 01°36'44" West along a line at a right angle from the last described course, a distance of 560.34 feet to the BEGINNING of the herein described line; thence North 71°35'35" East, a distance of 167.83 feet; thence North 34°59'38" East, a distance of 112.40 feet; thence North 20°38'29" East, a distance of 113.04 feet; thence North 01°36'20" West, a distance of 187.00 feet; thence North 85°39'30" East, a distance of 210.24 feet; thence North 88°23'16" East, a distance of 222.75 feet; thence South 42°50'10" East, a distance of 52.70 feet to the beginning of a curve concave Northwestwardly, having a chord bearing of South 24°03'48" West; thence Southwesterly along said curve, having a radius of 461.00 feet, through a central angle of 31°14'02" and an arc length of 251.31 feet to the end of said curve and the END of the herein described line; thence North 01°36'44" East, along a line at a right angle from the North line of said Section 12, a distance of 383.34 feet to a point on said North Section line; said point being 1,146.79 feet from the Northwest Corner of said Section 12.

The following portion of the previously described land is reserved by Florida Atlantic Research and Development Authority, a body corporate and politic under the law of the State of Florida, to be used by DRP Finance LLC, a Florida limited liability company, or its assigns for Road Right of Way purposes ONLY:

That part of the Northwest 1/4 of Section 12, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows:

Commence at a found drill hole at the Northwest Corner of said Section 12; thence North 88°23'16" East along the North

line of said Section 12 and the Baseline of Survey for S.W. 10th Street as shown on the Right of Way Parcel Sketch for Section No. 86070-2413/2455, a distance of 1,219.60 feet; thence South 01°36'44" West along a line at a right angle from the last described course, a distance of 120.00 feet to a point on the Southerly Existing Right of Way line for said S.W. 10th Street and the POINT OF BEGINNING; thence South 42°50'10" East, a distance of 52.70 feet to the beginning of a curve concave Northwestwardly, having a chord bearing of South 40°24'04" West; thence Southwesterly along said curve, having a radius of 461.00 feet, through a central angle of 63°54'33" and an arc length of 514.21 feet to the end of said curve; thence North 73°47'04" West, a distance of 17.00 feet; thence South 77°26'45" West, a distance of 60.00 feet; thence South 12°33'15" East, a distance of 8.74 feet to a point on a curve concave Northwardly, having a chord bearing of South 85°05'05" West; thence Westerly along said curve, having a radius of 461.00 feet, through a central angle of 06°49'07" and an arc length of 54.86 feet to the end of said curve; thence South 88°29'38" West, a distance of 122.62 feet; thence North 01°30'22" West, a distance of 28.05 feet; thence South 71°35'35" West, a distance of 167.83 feet; thence North 76°29'05" East, a distance of 17.98 feet; thence North 88°29'38" East, a distance of 265.62 feet to the beginning of a curve concave Northwestwardly, having a chord bearing of North 45°53'38" East; thence Northeastwardly along said curve, having a radius of 478.00 feet, through a central angle of 85°12'02" and an arc length of 710.80 feet to the end of said curve; thence South 88°23'16" West, a distance of 57.06 feet to the POINT OF BEGINNING.

EXHIBIT "1"

VOLUNTARY RETURN OF THE ADDITIONAL PROPERTY

WHEREAS, _____ ("Tenant") having entered into a lease, sub-lease, or sub-sublease for the following described real property, situated in Broward County, Florida, with the property address 1045 SW 11 Way, Deerfield Beach, Florida 33441, and the following legal description:

See Exhibit "A", attached hereto and made a part hereof ("Additional Property").

Tenant hereby voluntarily returns and surrenders legal possession of the Additional Property to the City as of the date of Tenant's signature below. Tenant voluntarily and knowingly releases the City from and against any and all claims and causes of actions, whether known or unknown, arising out of, relating to, or concerning that certain Master Lease Agreement dated as of June 4, 2003, recorded July 22, 2003 in Official Records Book 35650, at Page 17 of the Public Records of Broward County, Florida, and all amendments thereto; and the Non-Disturbance, Recognition and Direct Leasing Agreement dated March 19, 2008, and recorded in the public records of Broward County, Florida, on April 10, 2008, Book 45266 Page 656, and all amendments thereto; as to the Additional Property only.

IN WITNESS WHEREOF, the Tenant has executed this Voluntary Return of the Additional Property as of the day and year below.

Witness: _____
Print Name: _____
Witness: _____
Print Name: _____

By: _____
Name: _____
Title: _____
Date: _____

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me, the undersigned Notary Public in and for the State of _____, on this ____ day of _____, 20____, by _____, who is personally known to me, or produced identification, and who did take an oath.

Notary Public

January 31, 2022

City of Deerfield Beach
150 N.E. 2nd Avenue
Deerfield Beach, FL 33441
Attn: David Santucci, City Manager

Re: That certain Lease Agreement dated June 4, 2003, as amended by that First Amendment to Agreement dated February 19, 2008, Second Amendment to Agreement dated September 17, 2009, Third Amendment to Agreement dated July 27, 2011, Fourth Amendment to Agreement dated October 18, 2013, Fifth Amendment to Agreement dated August 20, 2019, Sixth Amendment to Agreement dated August 21, 2020, Seventh Amendment to Agreement dated May 18, 2021 and Eighth Amendment to Agreement (“Eighth Amendment to Master Lease”), as and when approved by the City of Deerfield Beach (collectively “Master Lease”). Terms not defined herein shall have the meaning set forth in the Eighth Amendment to Agreement.

Dears Mr. Santucci:

This letter will confirm that upon, and in consideration of, the execution of the Eighth Amendment to the Master Lease extending the time to obtain a building permit for a building on the Additional Property until January 11, 2023 and the time for obtaining a shell certificate of occupancy for such building until eighteen (18) months after obtaining such building permit subject in each case subject to extension due to acts of force majeure as provided in the Eighth Amendment to Master Lease, GS Deerfield, LLC, its successors and assigns, (collectively, “GS”) agrees to the following:

1. Prior Letter. GS previously executed and delivered the City a letter dated April 28, 2021 pursuant to which GS agrees to make payment(s) to the City of an aggregate of Two Hundred Thousand Dollars (\$200,000.00) (“Prior Letter”) of which One Hundred Thousand Dollars (\$100,000) was previously paid by GS to the City prior to the date hereof. This letter is intended to amend and restate the Prior Letter in its entirety and the Prior Letter is hereby rendered null and void and superseded by the terms of this Letter Agreement.
2. Building Plan. GS represents that GS shall diligently pursue a building permit on the Additional Property that shall be based on a building substantially consistent with that shown on Schedule 1 attached hereto (the “Building”), which may be amended upon approval by the City of Deerfield Beach (the “City”). The Building shown on Schedule 1 replaces the Building shown in the Prior Letter.
3. Community Contribution. The City hereby acknowledges that GS has previously paid the City One Hundred Thousand Dollars (\$100,000.00) as called for in the Prior Letter. Additionally, GS shall pay to the City the following: (a) within five (5) business days after delivery by the City to GS of the Eighth Amendment to Agreement executed by the City in the form of Schedule 2 attached hereto (“Eighth Amendment”) GS shall pay a contribution to the City of One Million One Hundred Thousand Dollars (\$1,100,000.00), (b) an additional contribution of One Million Dollars

(\$1,000,000.00) shall be paid by GS to the City simultaneously with the City's issuance of the first building permit for a Building on the Additional Property satisfying the timing for obtaining a building permit as set forth in the Eighth Amendment to Master Lease, and (c) GS shall pay the City an additional contribution of One Million Dollars (\$1,000,000.00) simultaneously with the issuance of a certificate of occupancy for the Building satisfying the timing to obtain a certificate of occupancy as set forth in the Eighth Amendment.

4. Default. GS acknowledges and agrees that failure to make the payments as specified in this Letter Agreement or failure to obtain a building permit and obtain a certificate of occupancy for a shell Building in the time required under the terms of the Eighth Amendment shall result in the termination of the Master Lease as to the Additional Property, and any and all interests of GS for the Additional Property in the Master Lease and Additional Property shall immediately terminate and GS shall voluntarily surrender the Additional Property to the City. Further, GS acknowledges and agrees that GS shall not be entitled to any refund of the payments received by the City pursuant to this Letter Agreement if GS fails to satisfy the timing for obtaining a building permit or certificate of occupancy as set forth in the Eighth Amendment to Master Lease.

5. Successors and Assigns. GS agrees that the reference to GS or a successor or assignee of GS in the Eighth Amendment to Master Lease shall mean to an assignee that is controlled by GS Deerfield, LLC, or its principal or to such other assignee as is reasonably approved in advance by the City of Deerfield Beach.

6. City Reliance on Representations. GS acknowledges that the City is relying on the representations and conditions of this Letter Amendment in entering into the Eighth Amendment to Master Lease.

7. Development Applications. This Letter Agreement shall not be construed to require any action by the City or any other government body with regard to any development applications, as the parties recognize and agree that any development application shall be reviewed based upon its particular merits and its specific compatibility to surrounding areas as well as other considerations of the City Comprehensive Plan and land development regulations under the City's Code of Ordinances, including the City's Land Development Code.

[SIGNATURES ON FOLLOWING PAGE]

150 NE 2nd Avenue – Delray 1, LLC,
a Delaware limited liability company
January 31, 2022
Page 3

Very truly yours,

GS DEERFIELD, LLC

Witness: _____
Print Name: _____
Witness: _____
Print Name: _____

By: _____
Name: _____
Title: _____

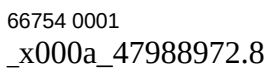
AGREED TO AND ACCEPTED BY:

CITY OF DEERFIELD BEACH,
FLORIDA

Bill Ganz, Mayor

Date: _____

IF A VIOLATION OF THE LAW FOR ANY PERSON, UNLESS ACTING UNDER THE DIRECTION OF A LICENSED ARCHITECT TO ALTER THESE PLANS AND SPECIFICATIONS, THIS DOCUMENT CONTAINS PROPERTY INFORMATION AND SHALL NOT BE USED OR REPRODUCED, OR ITS CONTENTS DISCLOSED, IN WHOLE OR IN PART, AND/OR IN THE PRESENCE OR FOR THE BENEFIT OF ANY OTHER ARCHITECTS OR ARCHITECTS' FIRMS, WITHOUT THE WRITTEN CONSENT OF GALLO HERBERT ARCHITECTS, P.C. ANY SUCH VIOLATION SHALL BE SUBJECT TO LEGAL ACTION AND PENALTIES. THE USER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS PRIOR TO PROVIDING THE WORK DESCRIBED IN THESE DRAWINGS, AND SHALL PROMPTLY NOTIFY THE DESIGNER OF ANY SUCH VIOLATION.







PERSPECTIVE VIEW 2
INNOVATION PARK OF DEERFIELD BEACH

