



Board of County Commissioners

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REQUEST FOR PROPOSAL

RFP NO. CA/2022-01

Palm Beach County
is seeking
Proposals for:

BOND COUNSEL AND DISCLOSURE COUNSEL

Date issued/available for distribution: **January 10, 2022**

Proposer **shall** submit one (1) unbound original and five (5) copies of the complete proposal to be received in the **PALM BEACH COUNTY ATTORNEY'S OFFICE** no later than **March 4, 2022, 4:00 p.m. local time**. See Section 1.7 of the RFP for Mailing Instructions.

**ENVELOPE MUST BE IDENTIFIED WITH THE
DEADLINE DATE FOR THE RECEIPT OF PROPOSALS
AND
THE RFP NUMBER.**

CAUTION

Amendments to this Request for Proposal will be posted at the Palm Beach County Attorney's Office as they are issued. It is the sole responsibility of proposers to routinely check for any Amendments that may have been issued prior to the Deadline for receipt of proposals.

Palm Beach County shall not be responsible for the completeness of any Request for Proposal package not directly provided from the Palm Beach County Contact Person listed in Section 1.8 of the RFP.

**IN ACCORDANCE WITH THE PROVISIONS OF ADA, THIS DOCUMENT MAY BE
REQUESTED IN AN ALTERNATE FORMAT**

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SECTION 1

GENERAL INFORMATION

1.1 ISSUING OFFICE:

This Request for Proposal (RFP) is issued for the County of Palm Beach, hereinafter referred to as “County”, by the County Attorney’s Office. The County Attorney’s Office is the SOLE point of contact concerning this RFP. All communications regarding this RFP must be done through the County Attorney’s Office. See Section 1.8, Contact Person.

1.2 INTRODUCTION:

The Palm Beach County Attorney’s Office is seeking proposals for outside bond counsel and disclosure counsel to advise and represent the County in matters related to Debt Obligations of the County.

1.3 PURPOSE OF THE PROJECT:

The County is seeking one (1) bond counsel and one (1) disclosure counsel on future Debt Obligations of the County. Bond counsel renders an opinion on the validity of the bond offering, the security of the offering and whether and to what extent interest on the bonds is exempt from income and other taxation. Bond counsel may perform similar services for taxable bond or note offerings by the County. Disclosure counsel must offer complete services to meet the County’s need in future bond financings including the preparation of the preliminary and final official statements, any negotiations with underwriters with respect to disclosure issues and the preparation of primary and secondary market disclosure documents. Selection of bond counsel and disclosure counsel is administered by the County Attorney for all financings, transactions and legal matters relating to the issuance and management of the County’s Debt Obligations. A selection committee comprised of a representative from the County Attorney’s Office and the members of the County Financing Committee will select a law firm to serve as bond counsel and a law firm to serve as disclosure counsel. The County Attorney will submit the selected law firms for approval by the Board of County Commissioners (BCC) and final agreement execution.

The County’s Capital Improvement Program (CIP) identifies potential bonding requirements in Fiscal Year 2022 for various public buildings. These bond issues are subject to future BCC approval.

1.4 PERIOD OF AGREEMENT:

The effective date of the Agreement will be upon execution by the County. The selected proposers will provide bond counsel or disclosure counsel services for a three (3) year period. One (1) three (3) year renewal option offered by the County, at the County’s sole discretion, is included.

The County reserves the right to reject any and all proposals, to waive any and all informalities outlined in this RFP and in the selection process, and generally, to make the award which, in its judgment, will best meet the objectives of the County.

The County reserves the right to withdraw or cancel this RFP at any time without prior notice and the County makes no representations that any agreement will be awarded to any proposer responding to this RFP.

1.5 QUALIFICATION OF RESPONDENTS:

All proposers to this RFP shall have demonstrated experience with municipal issuers of tax-exempt and taxable bonds in supplying such services and shall meet all criteria/requirements identified in this RFP. Proposers must have national recognition as Municipal Bond Attorneys as exemplified by continuously maintaining a listing in the Bond Buyer's Municipal Marketplace (Red Book) for at least three (3) years. Proposers should cite the page in the Red Book that the current listing may be found.

1.6 TIMETABLE:

The anticipated schedule and deadline for the RFP and Agreement approval are as follows:

<u>Activity</u>	<u>Date</u>	<u>Time</u>	<u>Location</u>
RFP available	1/10/22	10:00 a.m.	County Attorney's Office Governmental Center 301 N. Olive Ave, Suite 601 West Palm Beach, FL 33401 freynold@pbcgov.org fax number (561) 656-7042
Deadline for receipt of Questions or comments	2/7/22	4:00 p.m.	County Attorney's Office Governmental Center 301 N. Olive Ave, Suite 601 West Palm Beach, FL 33401 freynold@pbcgov.org fax number (561) 656-7042
Deadline for receipt Of proposals	3/4/22	4:00 p.m.	County Attorney's Office Governmental Center 301 N. Olive Ave, Suite 601 West Palm Beach, FL 33401
Selection Committee Meeting	3/24/22	10:30 a.m.	Office of Financial Management and Budget Governmental Center 301 N. Olive Ave, 7th Floor West Palm Beach, FL 33401

Posting Date of Notice of Intent to Award	TBD	TBD	County Attorney's Office Governmental Center 301 N. Olive Ave., Suite 601 W.P.B., FL 33401
BCC Award Date	TBD	TBD	Governmental Center 301 N. Olive Avenue, 6th Floor W.P.B., FL 33401
Agreement Start Date	<u>October 1, 2022</u>		

NOTE: County reserves the right to alter the above activities and/or times at the County's sole discretion.

1.7 PROPOSAL SUBMISSION:

All proposals must be submitted on 8½ x 11 inch paper.

One (1) unbound original and five (5) copies of the complete proposal must be received in the County Attorney's Office at the address listed above by **March 4, 2022, 4:00** p.m. local time. The original and all copies must be submitted in a sealed envelope or container. The proposer's complete return address must be included on the outer envelope or wrapper enclosing any materials submitted in response to this RFP. The outer envelope or wrapper should be addressed as follows:

Proposer Name
Address
Phone No.

Palm Beach County
Board of County Commissioners
County Attorney's Office
301 North Olive Avenue, Suite 601
West Palm Beach, Florida 33401
RFP for Bond Counsel and Disclosure Counsel
Due Date: **March 4, 2022, 4:00 p.m. local time**

Hand-carried proposals may be delivered to the above address ONLY between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding holidays observed by the County.

Proposers are responsible for informing any commercial delivery services, if used, of all delivery requirements and for insuring that the required address information appears on the outer wrapper or envelope used by such service.

Appendix A, Business Information, must be signed by an officer of the company who is legally authorized to enter into a contractual relationship in the name of the proposer (“Authorized Person”), and proposers must affix their company’s corporate seal to the document. In the absence of a corporate seal, proposals must be notarized by a Notary Public.

1.8 CONTACT PERSON:

The contact person for this RFP is Fay Reynolds, Legal Secretary, at (561) 355-3965, e-mail address freynold@pbcgov.org or fax number (561) 656-7045 in the County Attorney’s Office.

Proposers are advised that from the date of release of this RFP until award of the agreement, NO contact with County staff and/or designated Selection Committee members concerning this RFP is permitted, except as authorized by the contact person designated herein.

1.9 CONE OF SILENCE:

Proposers are advised that the “Palm Beach County Lobbyist Registration Ordinance” prohibits a proposer or anyone representing the proposer from communicating with any County Commissioner, County Commissioner’s staff, or any County Employee authorized to act on behalf of the Board of County Commissioners to award this agreement regarding its proposal, i.e., a “Cone of Silence”.

The “Cone of Silence” is in effect from the date/time of the deadline for submission of the proposal, and terminates at the time that the Board of County Commissioners, or a County Department authorized to act on their behalf, awards or approves an agreement, rejects all proposals, or otherwise takes action which ends the solicitation process.

Proposers may, however, contact any County Commissioner, County Commissioner’s Staff, or any County Employee authorized to act on behalf of the Board of County Commissioners to award this agreement via written communication, i.e., fax, e-mail, or U.S. Mail.

Violations of the “Cone of Silence” are punishable by a fine of \$250.00 per violation.

1.10 ADDITIONAL INFORMATION/AMENDMENT(S):

Any questions, comments (i.e., additional information or clarifications) must be made, in writing via fax, e-mail or U.S. Mail, no later than the date specified and to the address listed in the RFP Timetable (Section 1.6) or fax number or e-mail address listed for the Contact Person (Section 1.8) above. The request must contain the proposer’s name, address, phone number, facsimile number and e-mail address.

Facsimiles must have a cover sheet which includes, at a minimum, the proposer’s name, address, number of pages transmitted, phone number, facsimile number and e-mail address.

Changes to this RFP, when deemed necessary by the County, will be completed only by written Amendment(s) issued prior to the Deadline for receipt of proposals. Proposers should not rely on any representations, statements or explanation other than those made in the RFP or in any Amendment to this RFP. Where there appears to be a conflict between the RFP and any Amendment issued, the last Amendment issued shall prevail.

Amendments to the RFP will be posted at the Palm Beach County Attorney's Office. It is the sole responsibility of proposers to routinely check for any Amendments that may have been issued prior to the Deadline for receipt of proposals. Palm Beach County shall not be responsible for the completeness of any RFP package not directly provided from the Palm Beach County Contact Person listed in Section 1.8.

It is the proposer's sole responsibility to assure receipt of all Amendments. The proposer should verify with the designated Contact Person (see Section 1.8) prior to entering a proposal that all Amendments have been received. Proposers are required to acknowledge the receipt of all Amendments as part of their proposal.

SECTION 2 GENERAL TERMS AND CONDITIONS

2.1 PROPOSAL GUARANTEE:

Proposer guarantees their commitment, compliance, and adherence to all requirements of the RFP by submission of their proposal.

2.2 MODIFIED PROPOSALS:

Proposer may submit a modified proposal to replace all or any portion of a previously submitted proposal until the Deadline for receipt of proposals. The County will only consider the latest proposal submitted.

2.3 WITHDRAWAL OF PROPOSALS:

A proposal may be withdrawn only by written notification. Letters of withdrawal received after the Deadline for receipt of proposals will not be accepted unless the agreement has been awarded to another vendor or no award has been made within ninety (90) days after the Deadline for receipt of proposals.

Unless withdrawn, as provided in this subsection, a proposal shall be irrevocable until the time that an agreement is awarded.

2.4 LATE PROPOSALS, LATE MODIFIED PROPOSALS:

Proposals and/or modifications to proposals received after the Deadline for receipt of proposals specified in the RFP Timetable (Section 1.6) are late and shall not be considered.

2.5 RFP POSTPONEMENT/CANCELLATION:

The County may, at its sole and absolute discretion, reject any and all, or parts of any and all, proposals; waive any minor irregularities in this RFP or in the proposals received as a result of this RFP; postpone or cancel, at any time, this RFP process; or re-advertise this RFP.

2.6 COSTS INCURRED BY PROPOSERS:

All expenses incurred with the preparation and submission of proposals to the County, or any work performed in connection therewith, shall be borne by the proposer. No payment will be made for proposals received, nor for any other effort required of or made by the proposers, prior to commencement of work as defined by an agreement approved by the BCC.

2.7 PROPRIETARY/CONFIDENTIAL INFORMATION:

Any material submitted in response to this Request for Proposal is considered a public document in accordance with Section 119.07, F.S. This includes material which the responding proposer might consider to be confidential. All submitted information that the responding proposer believes to be confidential and exempt from disclosure (i.e., a trade secret, etc.) must be specifically identified as such. Upon receipt of a public records request for information the proposer has designated as a trade secret or as otherwise exempt from Section 119.07, F.S., a determination will be made whether the identified information is, in fact, confidential.

2.8 NEGOTIATIONS:

The County may award an agreement on the basis of initial proposals received, without discussions. Form agreements for bond counsel and disclosure counsel are attached to this RFP and should be reviewed by the proposer. Compensation for the legal services performed as bond counsel or disclosure counsel shall be as provided for in those agreements.

2.9 NO CONFLICT OF INTEREST:

Proposer represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any matter with the performance of the services under the Agreement, as provided in the rules regulating the Florida Bar, Chapter 112, Part III, Florida Statutes, and the Palm Beach County Code of Ethics. Proposer further represents that no person having such conflict of interest shall be employed for aid performance of services. Proposer further agrees to comply with County PPM #CW-O-052 regarding outside counsel conflicts of interest.

2.10 OMITTED

2.11 LOCAL PREFERENCE / LOCATION OF BUSINESS:

Pursuant to the Palm Beach County Local Preference Ordinance, a 5% Local Preference is given to proposers having a permanent place of business in Palm Beach County. To receive a Local Preference, a proposer must have a permanent place of business in existence prior to the County's issuance of this Request for Proposal. A permanent place of business means that the proposer's headquarters is located in Palm Beach County or the proposer has a permanent office or other site in Palm Beach County, where the proposer will produce a substantial portion of the goods or services to be purchased. A completed "Certification of Business Location" (Appendix D) and a valid Business Tax Receipt issued by the Palm Beach County Tax Collector is required, unless specifically exempted by law, and will be used to verify that the proposer had a permanent place of business prior to the issuance of this Request for Proposal. Please note that in order to receive a local preference, the name and address on the Business Tax Receipt must be the same name and address that is included on the proposal submitted to Palm Beach County, and the Business Tax Receipt must accompany the proposal at the time of proposal submission. Failure to submit this information will cause the proposer to not receive a preference. Palm Beach County may require a proposer to provide additional information for clarification purposes at any time prior to the award of the agreement.

2.12 PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL AUDIT REQUIREMENTS:

Pursuant to Palm Beach County Code, Section 2-421 - 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed County contracts, transactions, accounts, and records. The Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the County, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

2.13 RULES; REGULATIONS; LICENSING REQUIREMENTS:

The proposer shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. Proposers are presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered, to include Executive Order No. 11246 entitled "Equal Employment Opportunity" as amended by Executive Order No. 11375, and as supplemented by the Department of Labor Regulations (41 CFR, Part 60).

2.14 CRIMINAL HISTORY RECORDS CHECK:

Pursuant to Palm Beach County Code Section 2-371 – 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), the County will conduct fingerprint based criminal history record checks on all persons not employed by the County who repair, deliver, or provide goods or services for, to, or on behalf of the County. A fingerprint based criminal history record check shall be conducted on all employees of contractors and subcontractors of contractors, including repair persons and delivery persons, who are unescorted when entering a facility determined to be either a critical facility ("Critical Facilities") or a criminal justice information facility ("CJI Facilities"), which

are critical to the public safety and security of the County. County facilities that require this heightened level of security are identified in Resolution R-2003-1274, as amended. In October 2013, compliance with the requirements of the U.S. Federal Bureau of Investigation's CJI Security Policy was added to the Ordinance, which includes a broad list of disqualifying offenses. The proposer is solely responsible for understanding the financial, schedule, implications, and/or staffing implications of this Ordinance. Further, the proposer acknowledges that its proposal price includes any and all direct or indirect costs associated with compliance of this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the County.

2.15 REVIEW OF PROPOSALS:

Each proposal will be reviewed to determine if the proposal is responsive to the RFP. Proposals deemed to be non-responsive will be rejected without being evaluated by the Selection Committee. A responsive proposal is one which has been signed, has been submitted by the specified submission time, and has provided the information required to be submitted with the proposal (as stated in Section 3). While poor formatting, poor documentation, and/or incomplete or unclear information may not be cause to reject a proposal without evaluation, such substandard submissions may adversely impact the evaluation of your proposal, especially information relating to establishing financial/business stability. Proposers who fail to comply with all of the required and/or desired elements of this RFP, do so at their own risk.

2.16 EXCEPTIONS TO THE RFP:

All exceptions taken must be specific, and the proposer must indicate clearly what alternative is being offered to allow the County a meaningful opportunity to evaluate the proposal. Proposers are cautioned that submitting an alternative proposal does not relieve the proposer from submitting the "Minimum Requirements" as stated in Section 3. The County is under NO obligation to accept any proposed exceptions or alternatives.

2.17 SELECTION PROCESS:

All proposals timely received will be reviewed first by the County Attorney's Office to determine if each proposer has submitted the required information and met all Proposal Requirements (as stated in Section 3). Those proposals fulfilling the Proposal Requirements shall be referred to the Selection Committee for review and further consideration.

The Selection Committee will evaluate all responses to this RFP that meet the Proposal Requirements and are deemed responsive. The Selection Committee intends to evaluate all proposals based solely on the information submitted with the proposal. Accordingly, proposers are urged to ensure that their proposal contains all the necessary information for the Selection Committee to fairly and accurately evaluate each of the criteria listed below in Section 2.18. However, an oral presentation, additional written information, internal staff analysis, proposer presentations, outside consultants, and/or any other information may be required, at any time during the selection process, to help the Committee determine the final ranking of proposers. The Selection Committee may determine, as the result of additional information, that the impact of this information is significant and may be considered in the scoring and/or ranking, at the discretion of the Committee.

The Selection Committee shall meet in public session to score each proposal by reviewing each proposal against the evaluation criteria listed below in Section 2.18. Upon completion of the Selection Committee's review and discussion of all the responsive proposals submitted, each

Selection Committee member shall score each proposal and total the scores for each proposal. The proposals shall be assigned a ranking based upon the totals of each Selection Committee member's score for each proposal.

After the Selection Committee has developed an overall ranking for each proposer, the committee will then review, discuss, and make its recommendation for award.

2.18 EVALUATION CRITERIA:

- | | |
|--|---|
| 1. Experience/Qualifications/Technical Knowledge and Capabilities/References
(See Section 3.1) | Weight <u>45</u> % (<u>45</u> pts) |
| 2. Resources/Key Personnel and Operations
(See Section 3.2) | Weight <u>40</u> % (<u>40</u> pts) |
| 3. Accessibility and Availability to County
(See Section 3.3) | Weight <u>10</u> % (<u>10</u> pts) |
| 4. Local Preference
(See Section 2.11) | Weight <u>5</u>% (<u>5</u> pts) |

2.19 AWARD OF AGREEMENT:

The award, if any, will be made based on the Selection Committee's opinion after review of every responsive proposal.

Upon review and approval of the Selection Committee's recommendation for award, the County Attorney's Office will post the award recommendation at Suite 601, 301 North Olive Ave., West Palm Beach, FL 33401 for a period of five (5) business days for review by interested parties prior to final approval. The apparent successful proposers will be notified of the recommendation for award by mail. Agreements must be completed and executed by the successful proposers and by the BCC before becoming valid and effective. If this condition is not met in a timely manner through no fault of the County, the County, at its sole discretion, may elect to cancel the Recommended Award to that proposer. This process may continue until such time as the County has determined to cancel the procurement in its entirety.

2.20 DISCLOSURE OF OWNERHIP INTERESTS:

Pursuant to a directive by the Board of County Commissioners, the Disclosure of Ownership Interest affidavit (DOIA, Appendix C) must be completed on behalf of any individual or business entity that seeks to do business with the County when applicable. Disclosure does not apply to nonprofit corporations, government agencies, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Upon request from the County Attorney's Office, after posting the Recommended Awardees, each Recommended Awardee shall submit a completed DOIA (Appendix C) within a reasonable time. If a Recommended Awardee fails to submit a completed DOIA in a timely manner, the County, at its sole discretion, may elect to cancel the Recommended Award to that Awardee.

2.21 STANDARD AGREEMENT PROVISIONS (ATTACHMENTS 1 & 2):

The selected proposers will be required to execute either the bond counsel agreement attached as Attachment 1 or the disclosure counsel agreement attached as Attachment 2. If a proposer has comments related to any of the provisions in this RFP and/or the agreement sample, comments must be made, in writing, no later than the date specified in the RFP Timetable (see Section 1.6).

Standard County Contract provisions (general and specific) will be incorporated into any agreement resulting from this RFP. Should any selected proposer and the County be unable to consummate the agreement, the County may proceed to the next most advantageous proposal as determined by the Selection Committee or issue a new solicitation or cancel the procurement process in its entirety.

2.22 COMMENCEMENT OF WORK:

This RFP does not, by itself, obligate the County. The County's obligation will commence when the agreement is approved by the Board of County Commissioners or their designee and upon written notice to the proposer. The County may set a different starting date for the agreement. The County will not be responsible for any work done by the proposer, even work done in good faith, if it occurs prior to the agreement start date set by the County.

2.23 INSURANCE REQUIREMENTS:

Prior to the effective date of the Agreement, it shall be the responsibility of the successful proposer to provide evidence of the minimum amounts of insurance coverage specified in Attachments 1 and 2, respectively.

The successful proposer shall, on a primary basis and at its sole expense, maintain in full force and effect, at all times during the life of this Agreement, insurance coverages and limits (including endorsements) as described herein. Failure to maintain the required insurance shall be considered default of the Agreement. The requirements contained herein, as well as the County's review or acceptance of insurance maintained by the successful proposer, are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by the successful proposer under the Agreement.

2.24 SUCCESSFUL PROPOSER NON-DISCRIMINATION POLICY:

The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the proposer warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard

to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

As a condition of entering into this Contract, the proposer represents and warrants that it will comply with the COUNTY'S Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the proposer shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the proposer retaliate against any person for reporting instances of such discrimination. The proposer shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the COUNTY'S relevant marketplace in Palm Beach County. The proposer understands and agrees that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification or debarment of the company from participating in COUNTY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

2.25 DRUG FREE WORKPLACE CERTIFICATION:

Proposers should submit, with their proposal, an executed Drug Free Workplace Certification (Appendix B) indicating that the proposer has implemented a Drug Free Workplace Program which meets the requirements of Section 287.087, Florida Statutes.

2.26 AUTHORIZED SIGNATURE:

The authorized representative signature required on all offers and the Agreement must be made by an officer of the company (if applicable).

SECTION 3 PROPOSAL REQUIREMENTS

PROPOSAL FORMAT AND CONTENT:

Format

Proposals should be typed, double spaced and submitted on 8 ½" x 11" size paper, using a single method of fastening (e.g., stapled, binder, etc.). Proposals should include only brief and concise narrative. The enclosure of elaborate or unnecessary verbiage or promotional material is discouraged.

Table of Contents

Proposals should contain a Table of Contents. The Table of Contents outlines, in sequential order, all of the areas of the proposal and it allows for clarity and ease of review of the proposal.

Letter of Transmittal

Proposals should contain a Letter of Transmittal addressed to Contact person listed in Section 1.8, and should, at a minimum, contain the following:

- a. Identification of Proposer, including name, address and telephone number.
- b. Proposed working relationship between proposer and subcontractors, if applicable.
- c. Name, title, address, telephone number, fax number and e-mail address of contact person during period of proposal evaluation.
- d. Signed by a person authorized to bind proposer to the terms of the proposal.

Technical Proposal

Proposals shall contain all of the documents listed below, each fully completed, signed, and notarized as required. Failure of a proposer to provide the required information is considered sufficient cause to deem the proposal non-responsive.

The item(s) marked by an asterisk (*) should be a part of the proposal; however, if these items are omitted, the proposer must submit the item(s) upon request from the County within a time frame specified by the County (normally within two working days of request) or the proposal shall be deemed non-responsive. All other items must be submitted with the proposal or it shall be deemed non-responsive.

Notwithstanding these submittal requirements, the County reserves the right, at its sole discretion, to waive any minor irregularity relating to the proposal. Upon request, it shall be the responsibility of the proposer to address the determined minor irregularity within a time frame specified by the County (normally within two working days of request). Failure of a proposer to provide the required information within the specified time frame is considered sufficient cause to deem the proposal non-responsive.

Each of the following requirements should be addressed in separate sections of the proposal.

3.1 EXPERIENCE/QUALIFICATION/BACKGROUND/REFERENCES INFORMATION

The proposer shall be evaluated based on the information supplied. In order to be considered for selection, firms must have and show proof of a minimum of five (5) consecutive years experience conducting similar work and services as outlined in the Scope of Work/Services (Section 4). Responses in this section generally request examples of the proposer's experience, capabilities and structure that will be available to meet the County's needs.

Proposer must have national recognition as Municipal Bond Attorneys as exemplified by continuously being listed in the "Red Book" in the area of Municipal Bond Attorneys for the last three (3) years or the Principals of the firm must have 10 years experience with a firm with similar recognition in the "Red Book". It is clearly understood and confirmed with The Bond Buyer's Municipal Red Book Editorial Department, that **only firms are eligible for inclusion** in the Red Book under this caption and not individuals.

Proposer's attorneys must have sufficient time to execute and fulfill the duties of bond counsel or disclosure counsel and not be burdened by professional responsibilities or work load or by personal constraints which would interfere in any material respect with the principal's or proposer's obligation hereunder.

- 3.1.1 Proposer shall describe in detail their experience, qualifications, capabilities and expertise to perform the services identified in the Scope of Work/Services.
- 3.1.2 Proposer shall briefly describe their professional ability, knowledge, experience, and expertise to provide bond counsel and disclosure counsel services. It is important that Proposer has sufficient depth of talent and experience in municipal law, tax law, local government law, the trial and appeal of bond validation actions, disclosure obligations regarding current and future financial, legislative, regulatory, legal and demographic matters and the issuance of tax exempt and taxable bonds and notes.
- 3.1.3 For each of the last five (5) years, in tabular format, set forth the total number of municipal bond issues, with at least five (5) but not more than fifteen (15) of the attendant cover pages of Official Statements for such issues, for which your firm has served as bond counsel and has issued an opinion. A response to this section should include information which is representative of the type and variety of bond issues in which your firm has been involved. Also, please describe your firm's tax capability and experience in handling complex tax matters pertaining to bond transactions and the use of derivative products. Please include information as to whether litigation has resulted arising out to these opinions and provide details.

When providing an answer to this question, please include the following information:

- a) Purpose of issue (public improvement, housing, industrial development, etc.);
- b) Type of issue (general obligation, advanced refunding, revenue, commercial paper, or certificates of participation);
- c) Size of issue and term of bonds;
- d) Manner in which sold (competitive bid or negotiated sale);
- e) Use of derivative products and type of product;
- f) Governmental unit issuing bonds;
- g) Form of bond counsel opinion used;
- h) Name of attorney in your firm responsible for the bond issue.

- 3.1.4 Describe the capabilities of your firm to provide the County advice and representation in matters related to the County's disclosure obligations regarding current and future financial, legislative, regulatory, legal and demographic matters.
- 3.1.5 The County may choose to sell bonds by means of an internet-based platform from time to time in the future. In connection with such sales, the County will evaluate the use of electronic disclosure of bond sales documents and ancillary information. Please provide a clear statement of your firm's position on this issue, including the preferred direction for such regulation. Provide specific examples of advice given to your past and present clients in this area, plus copies of any position papers the firm has published. In addition, provide the names and phone numbers of three clients whom the County may contact to discuss their experiences with your firm's service in this area.
- 3.1.6 Describe any financing for which your firm or lawyers proposed to be assigned to the County's work have rendered any opinion which has resulted in the loss of exemptions on bonds issued by clients.
- 3.1.7 List at least three (3) Florida governmental clients the County can contact as references with respect to the proposer's work performance within the last five years. For each reference, include the following: a) name of client, b) contact person, c) title of contact person, d) telephone number and e) indicate your role with the agency.
- 3.1.8 Provide evidence of the ranking of Proposer as it appeared in the Bond Buyers annual ranking of bond counsel, if listed, for the past three (3) years, if any.
- 3.1.9 Provide the name of professional liability insurers for municipal practice specifically, the amount of coverage including deductibles and the policy number.

3.1.10 Describe any disciplinary action, administrative proceeding, malpractice claim or other like proceeding against your firm or any of its lawyers, whether current or pending, as well as any such action, proceeding or claim occurring during the past five years.

3.2 RESOURCES/KEY PERSONNEL AND OPERATIONS

The proposer shall provide:

- 3.2.1 The full legal name and organization structure of the firm. List and profile all attorneys with your firm who have experience with the issuance of tax-exempt or taxable bonds or notes for Florida local governments. Identify individuals who have the day-to-day responsibility for firm's engagement and identify the office to which they are permanently assigned. Responses to this section should include information as to length of time that your firm has provided these services.
- 3.2.2 Resumes of partners and principals who will be assigned to the County's engagement. This information should describe the qualification, education and professional background and special training of each attorney and indicate the experience each attorney possesses with respect to bond counsel and disclosure counsel representation, and any other information deemed relevant to their ability to handle bond matters.
- 3.2.3 Resumes of associates, attorneys of counsel or other staff that you anticipate assigning to the County's engagement.
- 3.2.4 An affirmative statement to the effect that, to your knowledge, the retention of your firm would not result in a conflict of interest with any party. Alternatively, should any potential conflict exist, specify the party with which there might be a conflict, the nature of the potential conflict, and the means proposed to resolve such conflict. List all governmental entities in Florida that you have a current contractual relationship with and briefly describe the nature of the relationship.
- 3.2.5 A description of any disciplinary action, administrative proceeding, malpractice claim or other like proceeding against your firm or any of its lawyers, whether current or pending, as well as any such action, proceeding or claim occurring during the last five years.
- 3.2.6 A description of the nature and magnitude of any litigation or proceeding whereby, during the past five years, a court or any administrative agency has ruled against your firm in any matter related to the professional activities of the firm. Similar information should be provided for current or pending litigation.
- 3.2.7 Describe the general capabilities of our firm including information relating to total size and staffing, research capabilities, professional staff and clerical support.

3.3 KEY PERSONNEL AND OPERATIONS INFORMATION

The proposer shall provide:

- 3.3.1 An Organizational Chart identifying the structure of firm.
- 3.3.2 A list of the key personnel assigned to the project, and submit a complete resume detailing their experience, education, expertise, qualifications, and knowledge of the project.
- 3.3.3 A description of the role of each staff member who will be responsible for handling and monitoring the Agreement.
- 3.3.4 Identify projects of similar nature in which each staff member has been involved.

3.4 LOCATION

Proposer shall specify the location(s), including the complete physical address, where the work for this project will be performed, including work performed by subcontractors, if applicable. Points for location shall be determined by each Selection Committee member based upon the requirements of the project.

Proposer shall thoroughly explain its accessibility in the areas of availability for meetings, general communications, coordination, and supervision.

Proposer shall thoroughly explain its accessibility and ability to meet the specified response times.

3.5 AMENDMENTS TO THE RFP

It is the proposer's responsibility to assure receipt of all amendments. The proposer shall verify with the designated contact person, prior to submitting a proposal, the number of amendments that have been received. Each amendment to the RFP shall be signed by an authorized person and shall be submitted with the proposal or the proposal shall be deemed non-responsive.

Additional Appendices

3.6 ADDITIONAL INFORMATION

Information considered by the proposer to be pertinent to this project and which has not been specifically solicited in any of the aforementioned sections may be placed in a separate appendix section. Proposers are cautioned, however, that this does not constitute an invitation to submit large amounts of extraneous materials. Appendices should be relevant and brief.

SECTION 4

SCOPE OF WORK/SERVICES

4.1 PURPOSE/BACKGROUND

Palm Beach County (County) is seeking to establish a law firm to serve as bond counsel and another firm to serve as disclosure counsel in connection with financings, transactions and legal matters relating to ongoing debt activities of the County. Bond counsel renders an opinion on the validity of the bond offering, the security for the offering, and whether and to what extent interest on the bonds is exempt from income and other taxation. Bond counsel may perform similar services for taxable bond or note offerings by the County. The opinion of bond counsel provides assurance both to the County and to investors who purchase the bonds that all legal and tax requirements relevant to the matters covered by the opinion are met. Disclosure counsel must offer complete services to meet the County's needs in future bond financings and the preparation of primary and secondary disclosure documents.

Each firm must have sufficient depth of talent and experience in municipal bond law, securities law, tax law, local government law, the trial and appeal of bond validation actions and the issuance of taxable or tax exempt municipal bonds and notes, to be able to allot sufficient time to meet with sometimes great demand that the County will place on bond counsel and disclosure counsel and be in a position to respond quickly and efficiently.

The County's selection committee will evaluate and rank RFP responses to select one firm to serve as bond counsel and another law firm to serve as disclosure counsel on future Debt Obligations for a period of three years with an option by the County for a further three year extension. Firms interested in responding to the RFP must submit proposals that detail the firm's capability to serve as both bond counsel and disclosure counsel for the County. The selection committee will recommend a law firm to serve as bond counsel and another law firm to serve as disclosure counsel to the County Attorney for submission to the BCC.

The financing team for any transaction will consist of County staff, bond counsel, disclosure counsel, financial advisor and the underwriters. The County does not represent or guarantee that any amount of financing will be completed. The County reserves the right to terminate a law firm's agreement upon notice as provided for in that agreement.

4.2 GENERAL REQUIREMENTS

A. Bond counsel

The services to be provided by bond counsel shall include, but not be limited to the following:

1. Render an opinion on the validity of the bond offering, the security for the offering and to what extent interest is exempt from income and other taxation.

2. Provide a legal opinion that assures the County and the investors who purchase the bonds that all legal and tax requirements relevant to the matters covered by the opinion are met. Have in-house expertise to provide specialized tax advice beyond normal bond counsel services, as needed.
3. Provide demonstrated ability, knowledge and expertise in the areas of municipal bond law, securities law, tax law, local government law, trial and appeal of bond validation actions, and the issuance of taxable and tax exempt municipal bonds and notes to be able to allot sufficient time to meet the demand that the County places on its bond counsel and respond quickly and efficiently.
4. Recommend the necessary provisions and covenants to be contained in the financing including but not limited to redemption provisions, flow of funds, debt service reserve fund requirements and security pledges.
5. Coordinate work with the County's in-house attorney, staff and professional consultants, including the financial advisor and underwriters, regarding the financial and security provisions to be contained in the bond documents authorizing and securing the financing, and attend meeting and hearings and otherwise assist to the extent reasonable and necessary, with exhibits and testimony.
6. Prepare all legal forms and documents necessary to execute the sale and closing of the financing including, notice of sale, bid form and legal publications.
7. If necessary, oversee the validation procedures and prepare and file all necessary legal documents.

B. Disclosure counsel

The services to be provided by disclosure counsel shall include, but not be limited to the following:

1. Review all bond documents applying knowledge and experience of the firm with financings of the issuer or comparable issuers.
2. Prepare preliminary official statement and official statement for the sale of the County's bonds, advise and assist the County to assure that the information contained in the official statement is accurate and complete in all material respects, and render the underwriter(s) a 10(b)-5 opinion as to no material omissions or misstatements (or as an alternative to rendering such opinion to the underwriter(s), deliver to the underwriter(s) an unqualified consent to rely upon such opinion).
3. Prepare the County's continuing disclosure agreement pursuant to Section 15c2-12 of the Securities Exchange Act 1934. Disclosure counsel would be accountable solely to the County, rendering a 10(b)-5 opinion directly to the County.
4. Advise on disclosure matters with regard to the structuring and timing of the County's debt issues.

5. Advise on matters of material event disclosures and related matters regarding secondary market disclosure.
6. Advise on changes in Federal and State legislation and regulatory matters involving disclosure matters applicable to the County.

SECTION 5 ATTACHMENTS

ATTACHMENT 1 - SAMPLE BOND COUNSEL AGREEMENT

ATTACHMENT 2 – SAMPLE DISCLOSURE COUNSEL AGREEMENT

ATTACHMENT 1

**AGREEMENT BETWEEN PALM BEACH COUNTY
AND _____
FOR BOND COUNSEL AND RELATED LEGAL SERVICES**

This Agreement is made and entered into on _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, ("County"), and the law firm of _____, a _____, located at _____, Federal Tax I. D. Number _____, ("Attorney").

In consideration of the mutual covenants and agreements expressed in this Agreement, County and Attorney agree as follows:

1. **Engagement.** County agrees to engage Attorney to provide bond counsel services and for such other legal services outside the usual scope of bond counsel services as may be requested from time to time by the County Attorney or designee (the "Legal Services").

2. **Compensation.**

(a) Upon Attorney's appointment to act as bond counsel for a particular County-funded financing, County agrees to compensate Attorney for such Legal Services in accordance with the fee schedule set forth as Exhibit "A" to this Agreement.

(b) Upon Attorney's appointment to act as conduit bond counsel to the County relating to industrial development revenue bonds, Attorney shall be compensated by the applicant at the rates agreed upon by Attorney and the applicant. Attorney shall directly bill the applicant for the services rendered to the County in connection with the issuance.

(c) For Legal Services requested by the County Attorney which are outside the usual scope of services provided by bond counsel or which are unrelated to a financing for which Attorney has been appointed bond counsel, County agrees to compensate Attorney at \$200 per hour. Requested formal opinions provided by Attorney may be compensated on a "flat fee" basis for such opinions. Fees for Legal Services under this subsection (b) shall be paid as agreed to in writing by Attorney and the County Attorney or designee.

3. **Expenses and Costs.**

(a) County also agrees to reimburse Attorney for its reasonable and necessary expenses and costs incurred during the course of providing the Legal Services, except when acting as conduit bond counsel to the County, where the applicant will be responsible for reimbursements. The expenses and costs may include, but are not limited to, out-of-pocket expenses for express mail, long-distance telephone charges, postage, printing and photocopying.

(b) All requests for payment of expenses eligible for reimbursement under this Agreement shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Clerk & Comptroller's Finance Department. Such documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Legal Services. Long- distance telephone calls shall identify the person(s) called, purpose of call, time and cost. Photocopying or printing charges shall give a general description of documents copied or printed and the rate charged. Mileage charges shall identify the destination, numbers of miles, rate, and purpose of travel. Any out-of-county travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Agreement shall be approved in writing by the County Attorney or designee, in advance, and paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

(c) Attorney shall maintain adequate records to justify all its charges, expenses and costs of performing the Legal Services for at least five (5) years after termination of this Agreement. County shall have access to such books, records and documents as required for the purpose of inspection or audit during Attorney's normal business hours, at County's expense, upon reasonable written notice.

(d) No reimbursement will be made for travel expenses incurred by Attorney when the destination is Palm Beach County without the prior written authorization of the County Attorney or designee.

4. **Termination and Assignment.**

(a) This Agreement may be terminated by County upon written notice to Attorney, effective upon Attorney's receipt of the notice. This Agreement may be terminated by Attorney upon sixty (60) days written notice to County. Upon termination, Attorney shall transfer all work in progress, completed work, and other materials related to the Legal Services to County.

(b) Neither this Agreement nor any rights and responsibilities hereunder may be assigned, in whole or in part, by Attorney without County's prior written consent.

5. **Reports, Confidentiality, Public Records and Inspector General.**

(a) Attorney shall provide periodic status reports, either oral or in writing, as requested by the County Attorney or designee.

(b) Attorney shall deliver to County for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for County in the course of providing the Legal Services.

(c) All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by County or at its expense shall be kept confidential by Attorney and shall not be disclosed to any other party, directly or indirectly except as provided in subsection (e), without County's prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction. All drawings, maps and sketches, and other data developed or purchased under this Agreement or at County's expense shall be and remain County's property and may be reproduced and reused at the discretion of County.

(d) Attorney shall comply with the provisions of Chapter 119, Florida Statutes and all other legal public records requirements.

(e) Palm Beach County has established the Office of the Inspector General as contained in the Palm Beach County Code, Sections 2-421 – 2-440, as may be amended. The Inspector General's authority includes, but is not limited to, the power to review past, present and proposed County contracts, transactions, account and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Attorney, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-241 – 2-440, and punished to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

6. **Insurance.**

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

A. **Commercial General Liability:** Attorney shall maintain Commercial General Liability at a limit of liability not less than \$500,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents" as an Additional Insured. A copy of the endorsement shall be provided to COUNTY upon request.

B. **Workers' Compensation Insurance & Employer's Liability:** Attorney shall maintain Workers' Compensation & Employer's Liability in accordance with Chapter 440 of the Florida Statutes.

C. **Professional Liability:** Attorney shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, COUNTY reserves the right, but not the obligation, to review and request a copy of Attorney's most recent annual report or audited financial statement. For policies written on a "claims-made" basis, Attorney warrants the Retroactive Date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this Contract, Attorney shall

purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the contract term. The requirement to purchase a SERP shall not relieve the Attorney of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims-made" form. If coverage is provided on a "claims-made" form the Certificate of Insurance must also clearly indicate the "retroactive date" of coverage.

D. Waiver of Subrogation: Except where prohibited by law, Attorney hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy except Professional Liability. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Attorney shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should Attorney enter into such an agreement on a pre-loss basis.

E. Certificates of Insurance: On execution of this contract, renewal, within forty-eight (48) hours of a request by COUNTY, and upon expiration of any of the required coverage throughout the term of this Agreement, the Attorney shall deliver to the COUNTY or COUNTY's designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this Contract have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners

And may be addressed:

c/o Department

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

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

7. Indemnification. Attorney shall indemnify, hold harmless and defend the County, its agents, servants, and employees from and against any and all claims, liability, losses and/or causes of actions (including attorney's fees) which may arise by virtue of any intentional or negligent act or omission of Attorney in the performance of the Legal Services.

8. Performance Qualifications. Attorney represents that it has, or will secure at its own expense, all necessary personnel required to perform the Legal Services. Such personnel shall not be employees of or have any contractual relationship with County. The Legal Services shall be performed by Attorney or under its supervision. All personnel engaged in performing the Legal Services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. Specifically, all lawyers performing the Legal Services must be members in good standing of The Florida Bar. Attorney must obtain prior written approval from the County Attorney or designee prior to permitting a lawyer who is not a member in good standing of The Florida Bar to perform any of the Legal Services

hereunder. Attorney warrants that it is listed as qualified bond counsel in the Municipal Bond Buyer's "Red Book" and shall maintain such "Red Book" listing during the term of this Agreement. Attorney further warrants that the Legal Services shall be performed by skilled and competent personnel to the highest professional standards.

9. **Truth in Negotiation.** Attorney's execution of this Agreement shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of this Agreement and no higher than those charged to Attorney's most favored client for the same or substantially similar service.

10. **Conflicts of Interest.**

(a) Attorney represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Legal Services, as provided in the standards set forth in Chapter 112.311, Florida Statutes. Attorney further represents that no person having such a conflicting interest shall be employed by Attorney to perform the Legal Services.

(b) Attorney shall promptly notify the County Attorney in writing of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence Attorney's judgment or quality of the Legal Services. Such written notice shall identify the prospective business association, interest or circumstance and the nature of work that Attorney wants to undertake and shall request the County Attorney's opinion as to whether the association, interest or circumstance would constitute a conflict of interest if entered into by the Attorney. The County Attorney or designee shall advise Attorney in writing as to whether a conflict of interest exists within thirty (30) days after receipt of the notice from Attorney. If, in the opinion of the County Attorney, the prospective business association, interest or circumstance would not constitute a conflict of interest by Attorney, the association, interest, or circumstance shall not be deemed in conflict of interest with respect to the Legal Services.

(c) Attorney agrees that it shall not serve as underwriter's counsel on any County bond issue (excluding County-issued industrial development bonds) during the term of this Agreement.

(d) Attorney further agrees to comply with County PPM #CW-0-052 regarding Attorney conflicts of interest. This PPM is incorporated herein by reference.

11. **Independent Contractor.** Attorney is in the performance of the Legal Services, an independent contractor and not an employee of County. All persons engaged in performing the Legal Services pursuant to this Agreement shall at all times be subject to Attorney's sole discretion, supervision, and control. Attorney shall exercise control over the means and manner in which it and its employees perform the work. Attorney does not have the power or authority to bind County in any promise, agreement or representation other than as specifically provided for in this Agreement.

12. **Solicitation.** Attorney warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Attorney to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation,

individual, or firm, other than a bona fide employee working solely for Attorney, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

13. **Non-Discrimination.** The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Attorney warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

As a condition of entering into this Contract, the Attorney represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the Attorney shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Attorney retaliate against any person for reporting instances of such discrimination. The Attorney shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Attorney understands and agrees that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

14. **Remedies.** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be originally filed and later held in Palm Beach County. No remedy herein conferred upon the parties is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. The parties agree that time is of the essence in the performance of all obligations hereunder. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other further exercise thereof.

15. **Notices.** All written notices required in this Agreement shall be sent by certified mail, return receipt requested.

If sent to County, the notice shall be mailed to:

County Attorney
Palm Beach County
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

If sent to Attorney, the notice shall be mailed to:

16. **Effective Date.** This Agreement shall be effective as of October 1, 2022 and shall terminate on September 30, 2025, unless terminated earlier in accordance with Section 4 above. This Agreement may be renewed for one (1) additional three (3) year term at the County's option.

17. **Non-Appropriations.** The County's performance and obligation to pay under this Agreement beyond the current fiscal year is contingent upon an annual appropriation by the County's Board of County Commissioners.

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

19. **Subcontracting.** County reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. Attorney is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If Attorney uses any subcontractors in performing this Agreement, the following provisions shall apply: If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, Attorney shall promptly do so, subject to acceptance of the new subcontractor by the County.

20. **No Third Party Beneficiaries.** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employee of the County and/or Attorney.

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

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

A. Keep and maintain public records required by the County to perform services as provided under this Contract.

B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise

provided by law. The Attorney further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the Attorney does not transfer the records to the public agency.

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

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

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

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

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

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

24. **Entire Agreement.** The foregoing terms and conditions constitute the entire agreement between the parties hereto and any representation not contained herein shall be null and void and of no force and effect. Further, this Agreement may be amended only in writing upon mutual consent of the parties.

ATTEST:

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

Joseph Abruzzo,
Clerk & Comptroller

By: _____
Deputy Clerk

By: _____
Mayor

APPROVED AS TO
LEGAL SUFFICIENCY

County Attorney

WITNESS:

ATTORNEY:

(Signature)

(Individual)

Name (Type or Print)

Name (Type or Print)

Title

ATTACHMENT 2

**AGREEMENT BETWEEN PALM BEACH COUNTY
AND _____
FOR DISCLOSURE COUNSEL AND RELATED LEGAL SERVICES**

This Agreement is made and entered into on _____, by and between **PALM BEACH COUNTY**, a political subdivision of the State of Florida, ("County"), and the law firm of _____, a _____, located at _____, Federal Tax I. D. Number _____, ("Attorney").

In consideration of the mutual covenants and agreements expressed in this Agreement, County and Attorney agree as follows:

1. **Engagement.** County agrees to engage Attorney to provide disclosure counsel services and for such other legal services outside the usual scope of disclosure counsel services as may be requested from time to time by the County Attorney or designee (the "Legal Services")

2. **Compensation.**

(a) Upon Attorney's appointment to act as disclosure counsel for a particular County financing, County agrees to compensate Attorney for such Legal Services at 50% of the bond counsel fee schedule set forth as Exhibit "A" to this Agreement.

(b) For Legal Services requested by the County Attorney which are outside the usual scope of services provided by disclosure counsel or which are unrelated to a financing for which Attorney has been appointed disclosure counsel, County agrees to compensate Attorney at \$200 per hour. Requested formal opinions provided by Attorney may be compensated on a "flat fee" basis for such opinions. Fees for Legal Services under this subsection (b) shall be paid as agreed to in writing by Attorney and the County Attorney or designee.

3. **Expenses and Costs.**

(a) County also agrees to reimburse Attorney for its reasonable and necessary expenses and costs incurred during the course of providing the Legal Services, except when acting as conduit bond counsel to the County, where the applicant will be responsible for reimbursements. The expenses and costs may include, but are not limited to, out-of-pocket expenses for express mail, long-distance telephone charges, postage, printing and photocopying.

(b) All requests for payment of expenses eligible for reimbursement under this Agreement shall include copies of paid receipts, invoices, or other documentation acceptable to the Palm Beach County Clerk & Comptroller's Finance Department. Such

documentation shall be sufficient to establish that the expense was actually incurred and necessary in the performance of the Legal Services. Long- distance telephone calls shall identify the person(s) called, purpose of call, time and cost. Photocopying or printing charges shall give a general description of documents copied or printed and the rate charged. Mileage charges shall identify the destination, numbers of miles, rate, and purpose of travel. Any out-of-county travel, per diem, mileage, meals, or lodging expenses which may be reimbursable under the terms of this Agreement shall be approved in writing by the County Attorney or designee, in advance, and paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes.

(c) Attorney shall maintain adequate records to justify all its charges, expenses and costs of performing the Legal Services for at least five (5) years after termination of this Agreement. County shall have access to such books, records and documents as required for the purpose of inspection or audit during Attorney's normal business hours, at County's expense, upon reasonable written notice.

(d) No reimbursement will be made for travel expenses incurred by Attorney when the destination is Palm Beach County without the prior written authorization of the County Attorney or designee.

4. **Termination and Assignment.**

(a) This Agreement may be terminated by County upon written notice to Attorney, effective upon Attorney's receipt of the notice. This Agreement may be terminated by Attorney upon sixty (60) days written notice to County. Upon termination, Attorney shall transfer all work in progress, completed work, and other materials related to the Legal Services to County.

(b) Neither this Agreement nor any rights and responsibilities hereunder may be assigned, in whole or in part, by Attorney without County's prior written consent.

5. **Reports, Confidentiality, Public Records and Inspector General.**

(b) Attorney shall provide periodic status reports, either oral or in writing, as requested by the County Attorney or designee.

(b) Attorney shall deliver to County for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for County in the course of providing the Legal Services.

(c) All written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by County or at its expense shall be kept confidential by Attorney and shall not be disclosed to any other party, directly or indirectly except as provided in subsection (e), without County's prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction. All drawings, maps and sketches, and other data developed or purchased under this Agreement or at County's expense shall be and remain County's property and may be reproduced and reused at the discretion of County.

(d) Attorney shall comply with the provisions of Chapter 119, Florida Statutes and all other legal public records requirements.

(e) Palm Beach County has established the Office of the Inspector General as contained in the Palm Beach County Code, Sections 2-421 – 2-440, as may be amended. The Inspector General’s authority includes, but is not limited to, the power to review past, present and proposed County contracts, transactions, account and records, to require the production of records, and to audit, investigate, monitor, and inspect the activities of the Attorney, its officers, agents, employees, and lobbyists in order to ensure compliance with contract requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interfering or impeding any investigation shall be in violation of Palm Beach County Code, Section 2-241 – 2-440, and punished to Section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

6. **Insurance.**

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

A. **Commercial General Liability:** Attorney shall maintain Commercial General Liability at a limit of liability not less than \$500,000 combined single limit for bodily injury and property damage each occurrence. Coverage shall not contain any endorsement(s) excluding Contractual Liability or Cross Liability.

Additional Insured Endorsement: The Commercial General Liability policy shall be endorsed to include, “Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees, and Agents” as an Additional Insured. A copy of the endorsement shall be provided to COUNTY upon request.

B. **Workers’ Compensation Insurance & Employer’s Liability:** Attorney shall maintain Workers’ Compensation & Employer’s Liability in accordance with Chapter 440 of the Florida Statutes.

C. **Professional Liability:** Attorney shall maintain Professional Liability, or equivalent Errors & Omissions Liability, at a limit of liability not less than \$1,000,000 each occurrence, and \$2,000,000 per aggregate. When a self-insured retention (SIR) or deductible exceeds \$10,000, COUNTY reserves the right, but not the obligation, to review and request a copy of Attorney’s most recent annual report or audited financial statement. For policies written on a “claims-made” basis, Attorney warrants the Retroactive Date equals or precedes the effective date of this Contract. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the term of this Contract, Attorney shall purchase a SERP with a minimum reporting period not less than three (3) years after the expiration of the contract term. The requirement to purchase a SERP shall not relieve the Attorney of the obligation to provide replacement coverage. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an “occurrence” or “claims-made” form. If

coverage is provided on a “claims-made” form the Certificate of Insurance must also clearly indicate the “retroactive date” of coverage.

D. **Waiver of Subrogation:** Except where prohibited by law, Attorney hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy except Professional Liability. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss agreement to waive subrogation without an endorsement, then Attorney shall notify the insurer and request the policy be endorsed with a Waiver of Transfer of Rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy that includes a condition to the policy specifically prohibiting such an endorsement or voids coverage should Attorney enter into such an agreement on a pre-loss basis.

E. **Certificates of Insurance:** On execution of this contract, renewal, within forty-eight (48) hours of a request by COUNTY, and upon expiration of any of the required coverage throughout the term of this Agreement, the Attorney shall deliver to the COUNTY or COUNTY’s designated representative a signed Certificate(s) of Insurance evidencing that all types and minimum limits of insurance coverage required by this Contract have been obtained and are in force and effect. Certificates shall be issued to:

Palm Beach County Board of County Commissioners

And may be addressed:

c/o Department

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

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

7. **Indemnification.** Attorney shall indemnify, hold harmless and defend the County, its agents, servants, and employees from and against any and all claims, liability, losses and/or causes of actions (including attorney’s fees) which may arise by virtue of any intentional or negligent act or omission of Attorney in the performance of the Legal Services.

8. **Performance Qualifications.** Attorney represents that it has, or will secure at its own expense, all necessary personnel required to perform the Legal Services. Such personnel shall not be employees of or have any contractual relationship with County. The Legal Services shall be performed by Attorney or under its supervision. All personnel engaged in performing the Legal Services shall be fully qualified and, if required, authorized or permitted under state and local law to perform such services. Specifically, all lawyers performing the Legal Services must be members in good standing of The Florida Bar. Attorney must obtain prior written approval from the County Attorney or designee prior to permitting a lawyer who is not a member in good standing of The Florida Bar to perform any of the Legal Services hereunder. Attorney warrants that it is listed as qualified bond counsel in the Municipal Bond Buyer’s “Red Book” and shall maintain such “Red Book” listing during the term of this Agreement. Attorney further warrants that the Legal Services shall be performed by skilled and competent personnel to the highest professional standards.

9. **Truth in Negotiation.** Attorney's execution of this Agreement shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Agreement are accurate, complete and current as of the date of this Agreement and no higher than those charged to Attorney's most favored client for the same or substantially similar service.

10. **Conflicts of Interest.**

(a) Attorney represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Legal Services, as provided in the standards set forth in Chapter 112.311, Florida Statutes. Attorney further represents that no person having such a conflicting interest shall be employed by Attorney to perform the Legal Services.

(b) Attorney shall promptly notify the County Attorney in writing of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence Attorney's judgment or quality of the Legal Services. Such written notice shall identify the prospective business association, interest or circumstance and the nature of work that Attorney wants to undertake and shall request the County Attorney's opinion as to whether the association, interest or circumstance would constitute a conflict of interest if entered into by the Attorney. The County Attorney or designee shall advise Attorney in writing as to whether a conflict of interest exists within thirty (30) days after receipt of the notice from Attorney. If, in the opinion of the County Attorney, the prospective business association, interest or circumstance would not constitute a conflict of interest by Attorney, the association, interest, or circumstance shall not be deemed in conflict of interest with respect to the Legal Services.

(c) Attorney agrees that it shall not serve as underwriter's counsel on any County bond issue (excluding County-issued industrial development bonds) during the term of this Agreement.

(d) Attorney further agrees to comply with County PPM #CW-0-052 regarding Attorney conflicts of interest. This PPM is incorporated herein by reference.

11. **Independent Contractor.** Attorney is in the performance of the Legal Services, an independent contractor and not an employee of County. All persons engaged in performing the Legal Services pursuant to this Agreement shall at all times be subject to Attorney's sole discretion, supervision, and control. Attorney shall exercise control over the means and manner in which it and its employees perform the work. Attorney does not have the power or authority to bind County in any promise, agreement or representation other than as specifically provided for in this Agreement.

12. **Solicitation.** Attorney warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for Attorney to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for Attorney, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement.

13. **Non-Discrimination.** The County is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the Attorney warrants and represents that throughout the term of the Contract, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Contract.

As a condition of entering into this Contract, the Attorney represents and warrants that it will comply with the County's Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the Attorney shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of subcontractors, vendors, suppliers, or commercial customers, nor shall the Attorney retaliate against any person for reporting instances of such discrimination. The Attorney shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its public sector and private sector subcontracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the County's relevant marketplace in Palm Beach County. The Attorney understands and agrees that a material violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification or debarment of the company from participating in County contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party.

14. **Remedies.** This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be originally filed and later held in Palm Beach County. No remedy herein conferred upon the parties is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. The parties agree that time is of the essence in the performance of all obligations hereunder. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other further exercise thereof.

15. **Notices.** All written notices required in this Agreement shall be sent by certified mail, return receipt requested.

If sent to County, the notice shall be mailed to:

County Attorney
Palm Beach County
301 North Olive Avenue, Suite 601
West Palm Beach, FL 33401

If sent to Attorney, the notice shall be mailed to:

16. **Effective Date.** This Agreement shall be effective as of October 1, 2022 and shall terminate on September 30, 2025, unless terminated earlier in accordance with Section 4 above. This Agreement may be renewed for one (1) additional three (3) year term at the County's option.

17. **Non-Appropriations.** The County's performance and obligation to pay under this Agreement beyond the current fiscal year is contingent upon an annual appropriation by the County's Board of County Commissioners.

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

19. **Subcontracting.** County reserves the right to accept the use of a subcontractor or to reject the selection of a particular subcontractor and to inspect all facilities of any subcontractor in order to make a determination as to the capability of the subcontractor to perform properly under this Agreement. Attorney is encouraged to seek additional small business enterprises for participation in subcontracting opportunities. If Attorney uses any subcontractors in performing this Agreement, the following provisions shall apply: If a subcontractor fails to perform or make progress, as required by this Agreement, and it is necessary to replace the subcontractor to complete the work in a timely fashion, Attorney shall promptly do so, subject to acceptance of the new subcontractor by the County.

20. **No Third Party Beneficiaries.** No provision of this Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to this Agreement, including but not limited to any citizen or employee of the County and/or Attorney.

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

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

A. Keep and maintain public records required by the County to perform services as provided under this Contract.

B. Upon request from the County's Custodian of Public Records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The Attorney further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.

C. Ensure that public records that are exempt, or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the Contract, if the Attorney does not transfer the records to the public agency.

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

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

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

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

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

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

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

24. **Entire Agreement.** The foregoing terms and conditions constitute the entire agreement between the parties hereto and any representation not contained herein shall be null and void and of no force and effect. Further, this Agreement may be amended only in writing upon mutual consent of the parties.

ATTEST:

Joseph Abruzzo,
Clerk & Comptroller

By: _____
Deputy Clerk

APPROVED AS TO
LEGAL SUFFICIENCY

County Attorney

WITNESS:

(Signature)

Name (Type or Print)

PALM BEACH COUNTY, FLORIDA, BY ITS
BOARD OF COUNTY COMMISSIONERS

By: _____
Mayor

ATTORNEY:

(Individual)

Name (Type or Print)

Title

SECTION 6 APPENDICES

- APPENDIX A - Business Information
- APPENDIX B - Drug Free Workplace Certification
- APPENDIX C - Disclosure of Ownership Interests
- APPENDIX D - Certification of Business Location

**APPENDIX A
BUSINESS INFORMATION
RFP NO. CA/2022-01**

Full Legal Name of Entity: _____

(Exactly as it is to appear on the Contract/Agreement)

Entity Address: _____

Telephone Number: (____) _____ Fax Number: (____) _____

Form of Entity:

- Corporation
- Limited Liability Company
- Partnership, General
- Partnership, Limited
- Joint Venture
- Sole Proprietorship

Federal I.D. Number: _____

(1) If Proposer is a subsidiary, state name of parent company.

Caution: All information provided herein must be as to Proposer (subsidiary) and not as to parent company.

(2) Is Entity registered to do business in the State of Florida? Yes No

If **yes** to the above, as of what date? _____

If not presently registered with the Division of Corporations to do business in the State of Florida as either a Florida or foreign corporation, Proposer acknowledges, by signing below, that if it is the Awardee it will register with the State of Florida prior to the effective date of the contract with Palm Beach County.

SIGNATURE: _____

NAME (PRINT): _____

TITLE: _____

COMPANY: _____

APPENDIX B
DRUG-FREE WORKPLACE CERTIFICATION
RFP NO. CA/2022-01

IDENTICAL TIE PROPOSALS - In accordance with Section 287.087, F.S., a preference will be given to vendors submitting with their proposals the following certification that they have implemented a drug-free workplace program which meets the requirements of Section 287.087; provided, however, that any preference given pursuant to Section 287.087, shall be made in conformity with the requirements of the Palm Beach County Code, Chapter 2, Article III, Sections 2-80.21 through 2-80.34. In the event tie proposals are received from vendors who have not submitted with their proposals a completed Drug-Free Workplace Certification form, the award will be made in accordance with Palm Beach County's purchasing procedures pertaining to tie proposals.

This Drug-Free Workplace Certification form must be executed and returned with the attached proposal, and received on or before time of proposal submission to be considered. The failure to execute and/or return this certification shall not cause any proposal to be deemed non-responsive.

Whenever two (2) or more proposals which are equal with respect to price, quality, and service are received by Palm Beach County for the procurement of commodities or contractual services, a proposal received from a business that certifies that it has implemented a drug-free workplace program shall be given preference in the award process. In order to have a drug-free workplace program, a business shall:

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

THIS CERTIFICATION is submitted by _____ the
(Individual's Name)

_____ of _____
(Title/Position with Company/Vendor) (Name of Company/Vendor)

who does hereby certify that said Company/Vendor has implemented a drug-free workplace program which meets the requirements of Section 287.087, Florida Statutes, which are identified in numbers (1) through (6) above.

Signature Date

APPENDIX C
DISCLOSURE OF OWNERSHIP INTERESTS
RFP NO. CA/2022-01

TO: **PALM BEACH COUNTY CHIEF OFFICER,
OR HIS OR HER OFFICIALLY DESIGNATED REPRESENTATIVE**

**STATE OF FLORIDA
COUNTY OF PALM BEACH**

BEFORE ME, the undersigned authority, this day personally appeared _____, hereinafter referred to as "Affiant," who being by me first duly sworn, under oath, deposes and states as follows:

1. Affiant appears herein as:
[] an individual **or**
[] the _____ of _____.
[position—e.g., sole proprietor, president, partner, etc.] [name & type of entity—e.g., ABC Corp., XYZ Ltd. Partnership, etc.]. The Affiant or the entity the Affiant represents herein seeks to do business with Palm Beach County through its Board of County Commissioners.

2. Affiant's address is: _____
_____.

3. Attached hereto as Exhibit "A" is a complete listing of the names and addresses of every person or entity having a five percent (5%) or greater interest in the Affiant's corporation, partnership, or other principal. Disclosure does not apply to nonprofit corporations, government agencies, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

4. Affiant acknowledges that this Affidavit is given to comply with Palm Beach County policy, and will be relied upon by Palm Beach County and the Board of County Commissioners. Affiant further acknowledges that he or she is authorized to execute this document on behalf of the entity identified in paragraph one, if any.

5. Affiant further states that Affiant is familiar with the nature of an oath and with the penalties provided by the laws of the State of Florida for falsely swearing to statements under oath.

6. Under penalty of perjury, Affiant declares that Affiant has examined this Affidavit and to the best of Affiant's knowledge and belief it is true, correct and complete.

FURTHER AFFIANT SAYETH NAUGHT.

_____, Affiant
(Print Affiant Name)

The foregoing instrument was acknowledged before me this ____ day of _____, 20____, by _____, [] who is personally known to me or [] who has produced _____ as identification and who did take an oath.

Notary Public

(Print Notary Name)
State of Florida at Large
My Commission Expires: _____

EXHIBIT "A"

DISCLOSURE OF OWNERSHIP INTERESTS IN AFFIANT

Affiant must identify all entities and individuals owning five percent (5%) or more ownership interest in Affiant's corporation, partnership or other principal, if any. Affiant must identify individual owners. For example, if Affiant's principal is wholly or partially owned by another entity, such as a corporation, Affiant must identify the other entity, its address, and the individual owners of the other entity. Disclosure does not apply to any nonprofit corporation, government agency, or to an individual's or entity's interest in any entity registered with the Federal Securities Exchange Commission or registered pursuant to Chapter 517, Florida Statutes, whose interest is for sale to the general public.

Name

Address

APPENDIX D

RFP NO. CA/2022-01

CERTIFICATION OF BUSINESS LOCATION

In accordance with the Palm Beach County Local Preference Code, a preference may be given to: (1) proposers having a permanent place of business in Palm Beach County (“County”); or (2) proposers having a permanent place of business in the Glades that are able to provide the goods, services or construction to be utilized or built within the Glades. To receive a local preference, proposers must have a permanent place of business within the County or the Glades, as applicable, prior to the County’s issuance of any solicitation. A Business Tax Receipt which is issued by the Palm Beach County Tax Collector, authorizes the proposer to provide the goods/services to be purchased, and will be used to verify that the proposer had a permanent place of business prior to the issuance of the solicitation. The proposer must submit this Certification of Business Location (“Certification”) along with the required Business Tax Receipt at the time of proposal submission. The Business Tax Receipt and this Certification are the sole determinant of local preference eligibility. Errors in the completion of this Certification or failure to submit this completed Certification will cause the proposer to not receive a local preference.

In instances where the proposer is exempt by law from the requirement of obtaining a Business Tax Receipt, the proposer must: (a) provide a citation to the specific statutory exemption; and (b) provide other documentation which clearly establishes that the proposer had a permanent place of business within the County or the Glades prior to the date of issuance of the solicitation. The County hereby retains the right to contact said proposer for additional information related to this requirement after the proposal due date.

I. Proposer is a:

_____ Local Business: A local business has a permanent place of business in Palm Beach County.

(Please indicate):

_____ Headquarters located in Palm Beach County
 _____ Permanent office or other site located in Palm Beach County from which a vendor will produce a substantial portion of the goods or services.

_____ Glades Business: A Glades business has a permanent place of business in the Glades.

(Please indicate):

_____ Headquarters located in the Glades
 _____ Permanent office or other site located in the Glades from which a vendor will produce a substantial portion of the goods or services.

II. The attached copy of proposer’s County Business Tax Receipt verifies proposer’s permanent place of business. THIS CERTIFICATION is submitted by

_____, as _____, of _____
 (Name of Individual) (Title) (Firm)

who hereby certifies that the information stated above is true and correct and that the County Business Tax Receipt is a true and correct copy of the original. Further, it is hereby acknowledged that any misrepresentation by the proposer on this Certification will be considered an unethical business practice and be grounds for sanctions against future County business with the proposer.

 (Signature)

 (Date)