

PALM BEACH COUNTY PURCHASE ORDER/CONTRACT
STANDARD TERMS AND CONDITIONS
FOR FEDERALLY FUNDED GOODS OR SERVICES

Unless agreed to otherwise by Palm Beach County ("County"), the following Terms and Conditions are applicable to this order/contract for goods or services paid for or reimbursed with federal funds and entered into by and between the County and the Vendor. The term "order/contract" as used below may collectively apply to an order or a contract.

VENDOR REGISTRATION

In order to do business with Palm Beach County, vendors are required to create a Vendor Registration Account OR activate an existing Vendor Registration Account through the Purchasing Department's Vendor Self Service (VSS) system, which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>. It is the vendor's sole responsibility to routinely check VSS for any amendments that may be issued prior to the deadline for receipt of submissions. Palm Beach County shall not be responsible for the completeness of any solicitation that was not downloaded from VSS or obtained directly from the Purchasing Department.

1. LEGAL REQUIREMENTS

- a. **COMPLIANCE WITH LAWS AND CODES:** The vendor shall comply with all federal, state and local laws, ordinances, and regulations applicable to the services contemplated herein. Vendors are presumed to be and shall be familiar with all federal, state and local laws, ordinances, codes and regulations that may, in any way, affect the services offered, including, but not limited to Uniform Guidance (2 C.F.R. pt. 200). Lack of knowledge by the Vendor shall in no way be a cause for relief from responsibility. The vendor shall strictly comply with Federal, State and local building and safety codes. Equipment shall meet all State and Federal Safety regulations. Vendor certifies that all products (materials, equipment, processes, or other items) meet all ANSI, NFPA, and all other Federal and State requirements. Vendor further certifies that the product delivered is subsequently found to be deficient in any of the aforementioned requirements in effect on date of delivery, all costs necessary to bring the product into compliance shall be borne by the vendor.

Any toxic substance provided to the County as a result of this order/contract shall be accompanied by its Safety Data Sheet (SDS).

Unless otherwise provided by federal law, the Uniform Commercial Code (chapter 672, Florida Statutes) shall prevail as the basis for contractual obligations between the vendor and Palm Beach County for any terms and conditions not specifically stated otherwise.

- b. **VENUE AND GOVERNING LAW:** Any and all legal actions arising from or necessary to enforce this order/contract will be held in Palm Beach County and shall be interpreted according to the laws of Florida.
- c. **DISCRIMINATION PROHIBITED:** Palm Beach County is committed to assuring equal opportunity in the award of orders/contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R-2017- 1770, as may be amended, the vendor warrants and represents that throughout the term of the contract, including any renewals thereof, 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 a default of contract.

Vendor shall comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§16811683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C.§794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C. §§6101- 6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. §§290 dd-3 and 290 ee3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) Rehabilitation Act of 1973 any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application. Vendor shall comply with the Drug Free Workforce Act of 1988.

Vendor understands and agrees that a material violation of this clause shall be considered a material breach of this Order/Contract and may result in termination of this Order/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. Vendor shall include this language in its sub-contracts.

If subcontracts are to be let, the Vendor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women's business enterprises, and labor surplus firms are used when possible.

- d. **INDEPENDENT VENDOR RELATIONSHIP:** The vendor is, and shall be, in the performance of all work, services, and activities under the Contract, an Independent vendor and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to the Contract shall at all times, and in all places, be subject to the vendor's sole direction, supervision, and control. The vendor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the vendor's relationship, and the relationship of its employees, to the County shall be that of an Independent vendor and not as employees or agents of the County.
- e. **CRIMINAL HISTORY RECORDS CHECK:** Pursuant to Palm Beach County Code Section 2-371 through 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 vendor, vendor, and subcontractors of vendor, 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 Resolutions R2013-1470 and R2015-0572, as amended. In October 2013, compliance requirements of the U. S. Federal Bureau of Investigations CJI Security Policy were added to the Ordinance, which includes a broad list of disqualifying offenses. The vendor is solely responsible for understanding the financial, schedule, and/or staffing implications of this Ordinance. Further, the vendor acknowledges that its price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the County.
- f. **NON-COLLUSION:** Vendor certifies that it has entered into no agreement to commit a fraudulent, deceitful, unlawful, or wrongful act, or any act that may result in unfair advantage for one or more vendors over other vendors. Conviction for the Commission of any fraud or act of collusion in connection with any sale, quote, quotation, proposal or other act incident to doing business with Palm Beach County may result in permanent debarment.

No premiums, rebates or gratuities are permitted, either with, prior to, or after any delivery of material or provision of services. Any such violation may result in award cancellation, return of materials, discontinuation of services, and removal from the vendor list(s), and/or debarment or suspension from doing business with Palm Beach County.

- g. **CONE OF SILENCE:** Vendors are advised that the "Palm Beach County Lobbyist Registration Ordinance" prohibits a vendor or anyone representing the vendor from communicating with any County Commissioner, County Commissioner's staff, or any employee authorized to act on behalf of the Commission to award a particular contract, i.e., a "Cone of Silence". The "Cone of Silence" is in effect from the date/time of the deadline for submission of the response, and terminates at the time that the Board of County Commissioners or a County Department authorized to act on their behalf, awards or approves a contract, rejects all responses, or otherwise takes action that ends the solicitation process. Vendors may, however, contact any County Commissioner, County Commissioner's staff, or any employee authorized to act on behalf of the Commission to award a particular contract, via written communication, i.e., facsimile, e-mail or U.S. mail. Violations of the "Cone of Silence" are punishable by a fine of \$250.00 per violation.
- h. **CONFLICT OF INTEREST:** The vendor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in a manner with the performance or services required hereunder, as provided for in chapter 112, Part III, Florida Statutes and the Palm Beach County Code of Ethics, Sections 2-441 through 2-448 of the Palm Beach County Code. All vendors shall disclose the name of any County employee or relative of a County employee who owns, directly or indirectly, an interest of ten percent (10%) or more in the vendor's firm or any of its branches. The County's Code of Ethics, which applies to all County officials and employees, shall serve as the County's conflict of interest policy for federal awards.
- i. **SUCCESSORS AND ASSIGNS:** The County and the vendor each binds itself and its successors and assigns to the other party in respect to all provisions of the contract/order. Neither the County nor the vendor shall assign, sublet, convey or transfer its interest in the Contract without the prior written consent of the other.
- j. **INDEMNIFICATION:** Regardless of the coverage provided by any insurance, the vendor shall indemnify, save harmless and defend the County, its agents, servants, or employees from and against any and all claims, liability, losses and/or causes of action which may arise from any negligent act or omission of the vendor, its agents, servants or employees during the course of performing services or providing goods pursuant to this solicitation, the resultant contract, and/or the order/contract. Further, vendor shall hold County harmless and indemnify County for any funds that the County is obligated to refund the Federal Government arising out of the conduct, activities or administration of the contract by the vendor.

- k. **PUBLIC RECORDS, ACCESS, AUDITS AND RETENTION**: The vendor agrees that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to the Contract/Order which have been created as a part of the vendor's services or authorized by the County as a reimbursable expense, whether generated directly by the vendor, or by or in conjunction or consultation with any other party whether or not a party to the Contract/Order, whether or not in privity of contract/order with the County or the vendor, and wherever located shall be the property of the County.

Any material submitted by vendor in response to this solicitation and/or as part of this Contract/Order is considered a public document in accordance with section 119.07, Florida Statutes. All submitted information that the responding vendor believes to be confidential and exempt from disclosure (i.e., a trade secret or as provided for in sections 119.07 and 812.081, Florida Statutes) must be specifically identified as such. Upon receipt of a public records request for such information, a determination will be made as to whether the identified information is, in fact, confidential.

Vendor shall provide the County with an annual financial audit report that meets the requirements of sections 11.45 and 216.349, Florida Statutes, and chapter 10.550 and 10.600, Rules of the Auditor General, and, to the extent applicable, the Single Audit Act of 1984, 31 U.S.C. §§ 7501-7507, and the related provisions of the Uniform Guidance, 2 C.F.R. § 200.303 regarding internal controls, 2 C.F.R. §§ 200.330-200.332 regarding subrecipient monitoring and management, and 2 C.F.R. pt. 200, Subpart F regarding audit requirements. Any party receiving such funds shall comply with said provisions, and shall fully cooperate with any other party's compliance with said provisions.

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

- I. Keep and maintain public records required by the County to perform services provided under the Contract.
- II. Upon request from the County's Custodian of Public Records ("County's Custodian") or County's representative/liaison, on behalf of the County's Custodian, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in chapter 119, Florida Statutes, or as otherwise provided by law. The vendor 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.
- III. 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 vendor does not transfer the records to the public agency. Nothing contained herein shall prevent the disclosure of or the provision of records to the County.
- IV. Upon completion of the Contract, the vendor shall transfer, at no cost to the County, all public records in possession of the vendor unless notified by County's representative/liaison, on behalf of the County's Records Custodian, to keep and maintain public records required by the County to perform the service. If the vendor transfers all public records to the County upon completion of the Contract, the vendor shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the vendor keeps and maintains public records upon completion of the Contract, the vendor shall meet all applicable requirements for retaining public records. All records stored electronically by the vendor must be provided to the County, upon request of the County's Custodian or the County's representative/liaison, on behalf of the County's Custodian, in a format that is compatible with the information technology systems of County, at no cost to County.

Failure of the vendor to comply with the requirements of this Section, and other applicable requirements of state or federal law, shall be a material breach of the Contract. County shall have the right to exercise any and all remedies available to it for breach of contract, including but not limited to, the right to terminate for cause. Vendor acknowledges that it has familiarized itself with the requirements of chapter 119, Florida Statutes, and other requirements of state and/or federal law applicable to public records not specifically set forth herein.

IF THE VENDOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, IT IS THE VENDOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE 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, OR VIA E-MAIL RECORDSREQUEST@PBCGOV.ORG
OR VIA PHONE 561-355-6680**

- i. **INCORPORATION, PRECEDENCE, AND JURISDICTION:** This term and condition shall be included and incorporated in the awarded order/contract. Any and all legal action necessary to enforce the awarded order/contract shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the awarded order/contract shall be in a court of competent jurisdiction located in Palm Beach County.

The order of legal precedence is as follows: Laws passed by Congress, which are codified in provisions of the United States Code (U.S.C.) applicable to the funding source for this order/contract; Rules or regulations adopted by a federal agency, which are codified in the Code of Federal Regulations (C.F.R.) and applicable to the funding source for this order/contract; the federal award or funding document for this order/contract; the Uniform Guidance, inclusive of 2 C.F.R. §§ 200.317 – 200.326; Palm Beach County Code Sections 2-51 – 2-58; and, order/contract.

- m. **LEGAL EXPENSES:** The County shall not be liable to a vendor for any legal fees, court costs, or other legal expenses arising from the interpretation or enforcement of the order/contract, or from any other matter generated by or relating to the order/contract.
- n. **NO THIRD PARTY BENEFICIARIES:** No provision of the order/contract is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to the order/contract, including but not limited to any citizen or employees of the County and/or vendor.
- o. **SCRUTINIZED COMPANIES, DISCRIMINATORY VENDOR LIST AND PUBLIC ENTITY CRIMES:**

i. **SCRUTINIZED COMPANIES:**

- 1) **SCRUTINIZED COMPANIES (WHEN ORDER/CONTRACT VALUE IS LESS THAN \$1 MILLION):** As provided in section 287.135, Florida Statutes, by entering into an order/contract or performing any work in furtherance of this order/contract, the Vendor 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 section 215.4725, Florida Statutes.

If the County determines, using credible information available to the public, that a false certification has been submitted by Vendor, the resulting order/contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of the order/contract shall be imposed, pursuant to section 287.135, Florida Statutes.

- 2) **SCRUTINIZED COMPANIES (WHEN ORDER/CONTRACT VALUE IS GREATER THAN \$1 MILLION):** As provided in section 287.135, Florida Statutes, by entering into an order/contract or performing any work in furtherance of this order/contract, the Vendor certifies that it, its affiliates, suppliers, subcontractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to section 215.473, Florida Statutes, or is engaged in business operations in Cuba or Syria. If the Vendor is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, this order/contract may be terminated at the option of the County.

If the County determines, using credible information available to the public, that a false certification has been submitted by Vendor, the resulting order/contract may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of the order/contract shall be imposed, pursuant to section 287.135, Florida Statutes.

- ii. **DISCRIMINATORY VENDOR LIST:** An entity or affiliate who has been placed on the discriminatory vendor list may not: obtain a order/contract to provide goods or services to a public entity; construct or repair of a public building or public work; lease real property to a public entity; award or perform work as a vendor, supplier, or consultant under contract with any public entity; nor transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.
- iii. **PUBLIC ENTITY CRIMES:** F.S. 287.133 requires Palm Beach County to notify all vendors of the following: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not obtain an order/contract for the construction or repair of a public building or public work, may not lease real property to a public entity, may not be awarded or perform work as a vendor, supplier, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold

amount provided in CATEGORY TWO of section 287.017, Florida Statutes, for a period of 36 months from the date of being placed on the convicted vendor list.”

p. **PROTEST PROCEDURE:**

- I. **PROTEST PROCEDURE FOR PROCUREMENTS VALUED AT \$100,000 AND ABOVE:** Protest procedures are provided in the Palm Beach County Purchasing Code. Protests shall be submitted in writing, addressed to the Director of Purchasing, via hand delivery, mail or fax to (561) 242-6705. The protest must identify the solicitation, specify the basis for the protest, and be received by the Purchasing Department within five (5) business days of the posting date of the recommended award. The protest is considered filed when it is received by the Purchasing Department. Failure to file a protest as outlined in the Palm Beach County Purchasing Code shall constitute a waiver of proceedings under the referenced County Code.
- II. **PROTEST PROCEDURE FOR PROCUREMENTS VALUED BETWEEN \$3,500 AND \$99,999:** Protest procedures are provided in Countywide PPM #CW-L-049. Protests shall be submitted in writing, addressed to the Director of the County Department initiating the purchase order/contract, via hand delivery, mail or fax. The protest must identify the solicitation or order/contract, specify the basis for the protest, and be received by the initiating County Department within five (5) business days of the posting date of the recommended award/contract. The protest is considered filed when it is received by the initiating County Department. Failure to file a protest as outlined in Countywide PPM #CW- L-049 shall constitute a waiver of proceedings under the referenced Countywide PPM. Please refer to the solicitation or order/contract for name and information pertaining to the applicable County Department to be contacted.

q. **CERTIFICATIONS, LICENSES AND PERMITS:** Unless otherwise directed by County, vendor should provide a copy of all applicable Certificates of Competency or Licenses issued by the State of Florida or the Palm Beach County Construction Industry Licensing Board in the name of the vendor, as reflected in the County's Vendor Self Service System. If applicable, the vendor shall also maintain a current Local Business Tax Receipt (Occupational License) for County and all permits required to complete the contractual service at no additional cost to County. A County Local Business Tax Receipt (Occupational License) is required unless specifically exempted by law. It is the responsibility of the vendor to ensure that all required certifications, licenses and permits are maintained and are current throughout the term of the contract, inclusive of any renewals. Failure to meet this requirement shall be considered a default of the contract.

r. **REGULATIONS:** The Vendor shall comply with all federal, state and local laws, ordinances and regulations, applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. The Vendor is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the goods/services offered, and any other applicable federal requirements now in effect or imposed in the future. Vendor shall insert the substance of this clause in all subcontracts and other contractual instruments.

s. **E-VERIFY – EMPLOYMENT ELIGIBILITY:**

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

Vendor 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. Vendor 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 order/contract, which requires a longer retention period.

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

t. **FEDERAL TERMS AND CONDITIONS:**

- I. **FEDERAL CONTRACT WORK HOURS AND SAFETY ACT (Applies to all procurements over \$100,000 that involve employment of mechanics, laborers and construction work. This does not apply to the purchase of supplies or materials or articles ordinarily available on the open market or contracts for transportation or transmission of intelligence)**: Any order/contract including the employment of mechanics or laborers must provide for compliance with 40 U.S.C. § 3702, as supplemented by Department of Labor regulations (29 C.F.R. pt. 5). Specifically, each vendor must be required to compute the wages of every mechanic and laborer based on a standard workweek of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half (1½) times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- 1) **Overtime requirements.** No Vendor or subconsultant contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - 2) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph T.I.1) of this section, the vendor and any subconsultant responsible therefor shall be liable for the unpaid wages. In addition, such vendor and subconsultant shall be liable to the United States (in the case the work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchman and guards, employed in violation of the clause set forth in paragraph T.I.1) of this section, in the sum of \$29 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph T.I.1) of this section.
 - 3) **Withholding for unpaid wages and liquidated damages.** The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the vendor or subconsultant under any such contract or any other federal contract with the same prime vendor, or any other federally assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Vendor, such sums as may be determined to be necessary to satisfy any liabilities of such vendor or subconsultant for unpaid wages and liquidated damages as provided in the clause set forth in paragraph T.I.2) of this section.
 - 4) **Subcontracts.** The Vendor or subconsultant shall insert in any subcontracts the clauses set forth in paragraph T.I.1) through 6) of this section and also a clause requiring the subconsultants to include these clauses in any lower tier subcontracts. The Vendor shall be responsible for compliance by any subconsultant or lower tier subcontractor with the clauses set forth in paragraphs T.I.1) through 6) of this section.
 - 5) The vendor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.
 - 6) Records to be maintained under this provision shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the Department of Homeland Security, the Federal Emergency Management Agency, and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.
- II. **SCIENTIFIC RESEARCH AND DEVELOPMENT AND COPYRIGHT AND PATENT RIGHTS:** Those orders/contracts providing federal funds in support of scientific research and development must comply with the requirements of 37 C.F.R. pt. 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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

III. **CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL ACT, AS AMENDED (For orders/contracts greater than \$100,000):**

- 1) The vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251 et seq.).
- 2) The vendor agrees to report each violation to the County, and understands and agrees that the County will, in turn, report each violation as required by the federal awarding agency and the appropriate Environmental Protection Agency Regional Office.
- 3) The vendor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance money.

IV. **BYRD ANTI-LOBBYING AMENDMENT FOR PROCUREMENTS VALUED AT OR ABOVE \$100,000: (Certification Required):** Vendors who apply for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352 and 31 C.F.R. pt. 21. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the vendor. Upon request, vendor agrees to provide the County with a completed certificate titled Byrd Anti-Lobbying Amendment and subsequent certification(s) for it and/or its suppliers, subcontractors and sub-consultants after Contract award.

V. **DEBARMENT AND SUSPENSION (Certification Required):** A completed "Certification Regarding Debarment and Suspension" is required prior to award. Upon request, the vendor agrees to provide the County with subsequent certification(s) for it and/or its suppliers, subcontractors and subconsultants after Contract award.

- 1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180, subpart C, and 31 C.F.R. pt. 19, subpart C. As such the vendor is required to verify that none of the vendor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- 2) The vendor must comply with 2 C.F.R. pt. 180, subpart C, and 31 C.F.R. pt. 19, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- 3) This certification is a material representation of fact relied upon by County (subgrantee). If it is later determined that the vendor did not comply with 2 C.F.R. pt. 180, subpart C, and 31 C.F.R. pt. 19, subpart C, in addition to remedies available to the Federal Government serving as grantee and County as subgrantee, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- 4) The vendor must comply with the requirements of 2 C.F.R. pt. 180, subpart C, and 31 C.F.R. pt. 19, subpart C, while this order/contract is valid. The vendor further agrees to include a provision requiring such compliance in its lower tier covered transactions, including submission to vendor of this Certification completed by its suppliers, subcontractors and subconsultants.

VI. **PROCUREMENT OF RECOVERED MATERIALS (FOR GOODS VALUED ABOVE \$10,000):** In the performance of this contract/order, the vendor shall make maximum use of products containing recovered materials that are EPA designated items unless the product cannot be acquired:

- 1) Competitively within a timeframe providing for compliance with the contract performance schedule;
- 2) Meeting contract performance requirements; or
- 3) At a reasonable price.

Information about this requirement along with a list of EPA-designated items is available at the EPA's Comprehensive Procurement Guidelines web site: <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>

The vendor also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.

VII. **AMERICANS WITH DISABILITIES (ADA):** The Vendor shall meet all the requirements of the Americans With Disabilities Act (ADA), which shall include, but not be limited to, posting a notice informing service recipients and

employees that they can file any complaints of ADA violations directly with the Equal Employment Opportunity Commission (EEOC), One Northeast First Street, Sixth Floor, Miami, Florida 33132.

- VIII. **PROGRAM FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS:** (31 U.S.C. chapter 38). The vendor acknowledges that 31 U.S.C. chapter 38 (Administrative Remedies for False Claims and Statements) applies to the vendor's actions pertaining to this order/contract.
- IX. **PROHIBITION ON CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE SERVICES OR EQUIPMENT (48 C.F.R. § 52.204-25): Prohibition on Contracting for Covered Telecommunications Equipment or Services.**

A. Definitions:

- (1) **Backhaul** means intermediate links between the core network, or backbone network, and the small subnetworks at the edge of the network (e.g., connecting cell phones/towers to the core telephone network). Backhaul can be wireless (e.g., microwave) or wired (e.g., fiber optic, coaxial cable, Ethernet).
- (2) **Covered foreign country** means the People's Republic of China.
- (3) **Covered telecommunications equipment or services means:**
- a) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation, (or any subsidiary or affiliate of such entities);
 - b) For the purpose of public safety, security of Government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities);
 - c) Telecommunications or video surveillance services provided by such entities or using such equipment; or
 - d) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.
- (4) **Interconnection arrangements** means arrangements governing the physical connection of two or more networks to allow the use of another's network to hand off traffic where it is ultimately delivered (e.g., connection of a customer of telephone provider A to a customer of telephone company B) or sharing data and other information resources.
- (5) **Roaming** means cellular communications services (e.g., voice, video, data) received from a visited network when unable to connect to the facilities of the home network either because signal coverage is too weak or because traffic is too high.
- (6) **Substantial or essential component** means any component necessary for the proper function or performance of a piece of equipment, system, or service.
- (7) **Telecommunications equipment or services** means telecommunications or video surveillance equipment or services, such as, but not limited to, mobile phones, land lines, internet, video surveillance, and cloud servers.

(b) Prohibitions.

- (1) Section 889(b) of the John S. McCain National Defense Authorization Act for Fiscal Year 2019, Pub. L. No. 115-232, and 2 C.F.R. § 200.216 prohibit the head of an executive agency on or after Aug. 13, 2020, from obligating or expending grant, cooperative agreement, loan, or loan guarantee funds on certain telecommunications products or from certain entities for national security reasons.
- (2) Unless an exception in paragraph (c) of this clause applies, the vendor and its subcontractors may not use grant, cooperative agreement, loan, or loan guarantee funds from the U.S. Department of the Treasury to:
- (a) Procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;
 - (b) Enter into, extend, or renew a contract to procure or obtain any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology of any system;

- (c) Enter into, extend, or renew contracts with entities that use covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system; or
- (d) Provide, as part of its performance of this contract, subcontract, or other contractual instrument, any equipment, system, or service that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

(c) Exceptions.

(1) This clause does not prohibit vendors from providing—

- (a) A service that connects to the facilities of a third-party, such as backhaul, roaming, or interconnection arrangements; or
- (b) Telecommunications equipment that cannot route or redirect user data traffic or permit visibility into any user data or packets that such equipment transmits or otherwise handles.

(2) By necessary implication and regulation, the prohibitions also do not apply to:

- (a) Covered telecommunications equipment or services that:
 - i. Are *not used* as a substantial or essential component of any system; *and*
 - ii. Are *not used* as critical technology of any system.
 - iii Other telecommunications equipment or services that are not considered covered telecommunications equipment or services.

(d) Reporting requirement.

(1) In the event the vendor identifies covered telecommunications equipment or services used as a substantial or essential component of any system, or as critical technology as part of any system, during contract performance, or the vendor is notified of such by a subcontractor at any tier or by any other source, the vendor shall report the information in paragraph (d)(2) of this clause to the recipient or subrecipient, unless elsewhere in this contract are established procedures for reporting the information.

(2) The vendor shall report the following information pursuant to paragraph (d)(1) of this clause:

- (a) Within one business day from the date of such identification or notification: The contract number; the order number(s), if applicable; supplier name; supplier unique entity identifier (if known); supplier Commercial and Government Entity (CAGE) code (if known); brand; model number (original equipment manufacturer number, manufacturer part number, or wholesaler number); item description; and any readily available information about mitigation actions undertaken or recommended.
- (b) Within 10 business days of submitting the information in paragraph (d)(2)(a) of this clause: Any further available information about mitigation actions undertaken or recommended. In addition, the vendor shall describe the efforts it undertook to prevent use or submission of covered telecommunications equipment or services, and any additional efforts that will be incorporated to prevent future use or submission of covered telecommunications equipment or services.

(e) Subcontracts. The vendor shall insert the substance of this clause, including this paragraph (e), in all subcontracts and other contractual instruments.

X. **DOMESTIC PREFERENCE FOR PROCUREMENTS (2 C.F.R. § 200.322):** As appropriate, and to the extent consistent with law, the Vendor should, to the greatest extent practicable, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States. This includes, but is not limited to, iron, aluminum, steel, cement, and other manufactured products.

For purposes of this clause “Produced in the United States” means for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. Manufactured products means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; class, including optical fiber and lumber.

XI. **COMPLIANCE WITH FEDERAL LAWS.** This contract is being funded in whole or in part with federal funds awarded to the County by the U.S. Department of the Treasury. The Vendor shall comply with all applicable federal statutes, regulations, and executive orders. Vendor shall insert the substance of this clause in all subcontracts and other contractual instruments.

- XII. **FEDERAL SYSTEM FOR AWARD MANAGEMENT:** A order/contract shall not be made to parties listed on the government-wide exclusions set forth in the System for Award Management (“SAM”) (found at www.sam.gov), which contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.
- XIII. **MANDATORY STANDARDS AND POLICIES RELATING TO ENERGY EFFICIENCY:** Vendor is required to comply with mandatory standards and policies related to energy efficiency that are contained in the State energy conservation plan issued in accordance with the Energy Policy and Conservation Act (Pub. L. 94–163, 89 Stat. 871) (42 U.S.C. § 6201).
- XIV. **FEDERAL CRIMINAL LAW/FALSE CLAIMS ACT:** The False Claims Act sets forth liability for, among other things, any person who knowingly submits a false claim to the Federal government or causes another to submit a false claim to the government or knowingly makes a false record or statement to get a false claim paid by the government. 31 U.S.C. §§ 3729. For example, a false claim could include false billing documentation submitted by the County received from a vendor or subcontractor under the contract.

The vendor understands that making false statements or claims in connection with this contract is a violation of federal law, which may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

- XV. **CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS (if applicable):** The County has made all necessary affirmative steps to assure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible pursuant to 2 C.F.R. §200.321 The vendor, if prime subcontracts are to be let, shall take the Affirmative Steps listed below in paragraphs 1) through 5) of this Section.

AFFIRMATIVE STEPS must include:

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

- XVI. **FEDERAL RECORDS, ACCESS, AUDITS AND RETENTION:**

- 1) The vendor shall maintain all records pertaining to the procurement of the goods or services paid with federal funds for a period of five (5) years from the date of submission of the final expenditure report for the entire federal allocation or, for federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report, respectively, as reported to the federal awarding agency or pass-through entity. The County shall have access to such records as required in this Section for the purpose of inspection or audit during normal business hours, at the vendor's place of business. Exceptions include.
 - a) If any litigation, claim, or audit is started before the expiration of the five (5) year period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken.
 - b) When the County has received written notification to extend the records retention period from the federal awarding agency, agency for audit, oversight agency for audit, agency for indirect costs, or pass-through entity.
 - c) Records for equipment acquired with federal funds must be retained for five (5) years *after final disposition*.
 - d) When records are transferred to or maintained by the federal awarding agency or pass-through entity, the five (5) year retention requirement is *not* applicable to the County.

- 2) The following access to records requirements apply to this Contract:
 - a) The CONTRACTOR agrees to provide the COUNTY, the U.S. Treasury's Office of Inspector General, the U.S. Government Accountability Office or any of their authorized representative's, access to any books, documents, papers, and records (electronic or otherwise) of the CONTRACTOR which are directly pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions.
 - b) The CONTRACTOR agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- 3) Grant reporting includes both financial and program reporting requirements. There are a variety of applicable federal, state and local laws, regulations, requirements, and policies setting forth various reporting requirements, including, but not limited to COUNTY policies and procedures, U.S. Department of the Treasury guidance and federal regulations such as Subpart D, Post Federal Award requirements, Standards for Financial and Program Management, 2 C.F.R. § 200.300 through 2 C.F.R. § 200.345. Performance reporting includes, but is not limited to, the status of the project, the status of the funds, key performance indicators.

XVII. **FEDERAL CONFLICT OF INTEREST AND GIFT POLICY:**

- 1) **CONFLICT OF INTEREST:** Notwithstanding any provision of Section 2-443 of the Ethics Code, no employee, officer or agent of the County may participate in the selection, award, or administration of a contract supported by a federal award if he or she has a *real or apparent* conflict of interest. Such a conflict of interest would arise when the employee, officer, agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, *has a financial or other interest in or may receive a tangible personal benefit from a vendor considered for a County contract.*

In addition, vendor shall disclose to County in writing all federal criminal law violations involving fraud, bribery or gratuity that potentially affect the award of this order/contract. Failure to make the required disclosures can result in withheld payments, award termination, suspension or debarment of the vendor.

- 2) **ORGANIZATIONAL CONFLICT OF INTEREST:** The vendor shall not have activities or relationships (a) causing the vendor to be unable, or potentially unable, to render impartial assistance or advice to the County; (b) impairing the vendor's objectivity in performing the contract work; or (c) resulting in an unfair competitive advantage.
- 3) **GIFT POLICY:** Notwithstanding any provision of the Ethics Code, no vendor who is a party to, or receives a benefit from, this order/contract shall offer a gratuity, favor, or anything of monetary value to any officer, employee, or agent of the County. Further, no officer, employee, or agent of the County shall solicit or accept a gratuity, favor, or anything of monetary value from a vendor who is a party to, or receives a benefit from, this order/contract.

XVIII. **FEMA REQUIRED TERMS AND CONDITIONS:** In the event this order/contract is funded in whole or in part by the Federal Emergency Management Agency ("FEMA"), the following apply:

- 1) **DISASTER RECOVERY REFORM ACT:** In compliance with section 1225 of the Disaster Recovery Reform Act of 2018, the County and the Vendor acknowledge and agree that no language in this order/contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.
- 2) **CHANGES:** The Palm Beach County Director of Purchasing, by written notification to the vendor may make minor changes to the contract terms. Minor changes are defined as modifications which do not significantly alter the scope, nature, or price of the specified goods or services. Typical minor changes include, but are not limited to, place of delivery, method of shipment, minor revisions to customized work specifications, and administration of the order/contract. The vendor shall not amend any provision of the order/contract without written notification to the Director of Purchasing, and written acceptance from the Director of Purchasing or the Palm Beach County Board of County Commissioners.
- 3) **SEAL, LOGO AND FLAGS:** The Vendor shall not use DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The Vendor shall include this provision in any subcontract.
- 4) **NO OBLIGATION BY FEDERAL GOVERNMENT:** The Federal Government is not a party to this Contract and is not subject to any obligations or liabilities to the County, Vendor, or any other party pertaining to any matter resulting from this Contract.

2. CONTRACT ADMINISTRATION

a. **PRICING:**

- I. Prices offered must be the price for new merchandise and free from defect.
- II. The price offered must be in accordance with the order/contract. Vendor warrants that prices shall remain firm for the initial and any subsequent term unless modified by the County and vendor.
- III. If a sole source procurement or a procurement where there is no competition, profit must be negotiated as a separate element of price.

b. **NON-EXCLUSIVE:** As may be applicable, the County reserves the right to acquire some or all of these goods and services through a State of Florida contract under the provisions of section 287.042, Florida Statutes, provided the State of Florida contract offers a lower price for the same goods and services. This reservation applies both to the initial award of this solicitation and to acquisition after a term contract may be awarded. Additionally, Palm Beach County reserves the right to award other contracts for goods and services falling within the scope of this solicitation and resultant contract when the specifications differ from this solicitation or resultant contract, or for goods and services specified in this solicitation when the scope substantially differs from this solicitation or resultant contract.

c. **OFFER EXTENDED TO OTHER GOVERNMENTAL ENTITIES:** Palm Beach County encourages and agrees to the vendor extending the pricing, terms and conditions of this solicitation or resultant contract to other governmental entities pursuant to the requirements of the federal awarding agency.

d. **PERFORMANCE DURING EMERGENCY:** The vendor agrees and promises that, immediately preceding, during, and after a public emergency, disaster, hurricane, flood, or act of God, Palm Beach County shall be given "first priority" for all goods and/or services under the order/contract. Vendor agrees to provide all goods and/or services to Palm Beach County immediately preceding, during, and after a public emergency, disaster, hurricane, flood, or act of God, at the terms, conditions, and prices as provided in this solicitation and/or order/contract on a "first priority" basis. Vendor shall furnish a 24-hour phone number to the County. Failure to provide the goods and/or services to the County on a first priority basis immediately preceding, during, and after a public emergency, disaster, hurricane, flood, or act of God, shall constitute breach of contract and subject the vendor to sanctions from doing further business with the County.

e. **SALES PROMOTIONS / PRICE REDUCTIONS / MOST FAVORED CUSTOMER:** Should sales promotions occur during the term of the contract that lower the price of the procured item, the vendor shall extend to the County the lower price offered by the manufacturer on any such promotional item. Additionally, any time after award, the vendor may offer a reduced price, which shall remain in effect for the duration of the contract. The vendor warrants that the price(s) shall not exceed the vendor's price(s) extended to its most favored customer for the same or similar goods or services in similar quantities, or the current market price, whichever is lower. In the event the vendor offers more favorable pricing to one of its customers, the vendor shall extend to the County the same pricing or the then current market price, whichever is lower.

f. **BUSINESS INFORMATION:** If vendor is a Joint Venture for the goods/services described herein, vendor shall, upon request of Palm Beach County, provide a copy of the Joint Venture Agreement signed by all parties.

g. **DELIVERY AND ACCEPTANCE:** Deliveries of all items shall be made as soon as possible. Deliveries are to be made during the normal working hours of the County. Time is of the essence and delivery dates must be met. Should the vendor fail to deliver on or before the stated dates, the County reserves the right to CANCEL the order or contract and make the purchase elsewhere. The vendor shall be responsible for making any and all claims against carriers for missing or damaged items.

Delivered items shall not be considered "accepted" until an authorized agent for Palm Beach County has, by inspection or test of such items, determined that they appear to fully comply with specifications. The County may return, at the expense of the vendor and for full refund or credit at the discretion of the County, any item(s) received which fail to meet the County's specifications or performance standards.

h. **FEDERAL AND STATE TAX:** Palm Beach County is exempt from Federal and State taxes.

i. **PAYMENT:** In order for Palm Beach County to make payment, the vendor's legal name; vendor's Address; and vendor's TIN/FEIN Number must be exactly the same as it appears on the invoice and in Palm Beach County's VSS system, which can be accessed at <https://pbcvssp.co.palm-beach.fl.us/webapp/vssp/AltSelfService>.

- j. **INVOICING:** Vendors **shall** send **ALL ORIGINAL** invoices to the following address and **may** send copies of invoices to the Palm Beach County Department requesting the goods/services. Invoices submitted on carbon paper shall **not** be accepted.

**PALM BEACH COUNTY FINANCE
DEPT.
P.O. BOX 4036
WEST PALM BEACH, FL 33402-4036**

Payment shall be made by the County after the goods and/or services have been received, accepted, and properly invoiced as indicated in the contract or order. Invoices must bear the order number. The Florida Prompt Payment Act is applicable to this order/contract. Interest penalties will only be paid in accordance with the Florida Prompt Payment Act, section 218.70, Florida Statutes.

Note: Vendors can now be paid by Credit Card via the County's voluntary Payment Manager Program. For vendors who do not have a merchant account, one is needed to utilize the Program. For vendors with a merchant account, you will need to enroll with the Palm Beach County Clerk & Comptroller's office. For information, contact the Palm Beach County Clerk & Comptroller at pbcpaymentmgr@mypalmbeachclerk.com.

- k. **CHANGES:** The Director of Purchasing, Palm Beach County, by written notification to the vendor may make minor changes to the contract terms. Minor changes are defined as modifications which do not significantly alter the scope, nature, or price of the specified goods or services. Typical minor changes include, but are not limited to, place of delivery, method of shipment, minor revisions to customized work specifications, and administration of the contract. The vendor shall not amend any provision of the contract without written notification to the Director of Purchasing, and written acceptance from the Director of Purchasing or the Board of County Commissioners.
- l. **DEFAULT AND TERMINATION FOR CAUSE:** The County may, by written notice of default to the vendor, terminate the contract in whole or in part if the vendor fails to satisfactorily perform any provisions of this order/contract, or fails to make progress so as to endanger performance under the terms and conditions of this order/contract, or provides repeated non-performance, or does not remedy such failure within a period of 10 days (or such period as the Director of Purchasing may authorize in writing) after receipt of notice from the Director of Purchasing specifying such failure. In the event the County terminates the contract in whole or in part because of default of the vendor, the County may procure goods and/or services similar to those terminated, and the vendor shall be liable for any excess costs incurred due to this action.

If it is determined that the vendor was not in default or that the default was excusable (e.g., failure due to causes beyond the control of, or without the fault or negligence of, the vendor), the rights and obligations of the parties shall be those provided in Section 2m, "Termination for Convenience".

- m. **TERMINATION FOR CONVENIENCE:** The Director of Purchasing may, whenever the interests of the County so require, terminate the contract, in whole or in part, for the convenience of the County. The Director of Purchasing shall give five (5) days prior written notice of termination to the vendor, specifying the portions of the contract to be terminated and when the termination is to become effective. If only portions of the contract are terminated, the vendor has the right to withdraw, without adverse action, from the entire contract.

Unless directed differently in the notice of termination, the vendor shall incur no further obligations in connection with the terminated work, and shall stop work to the extent specified and on the date given in the notice of termination. Additionally, unless directed differently, the vendor shall terminate outstanding orders and/or subcontracts related to the terminated work.

- n. **REMEDIES:** No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law, or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.
- o. **PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL AUDIT REQUIREMENTS:** Pursuant to Palm Beach County Code, Sections 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, Sections 2-421–2-440, and punished pursuant to section 125.69, Florida Statutes, in the same manner as a second-degree misdemeanor.

- p. **FOB:** The F.O.B. point shall be destination. If the County agrees, freight charges may be prepaid by the vendor and listed on the invoice; however, vendor retains title and assumes all responsibility, liability and risk in transit, and shall be responsible for the filing of claims for loss or damages.
- q. **PURCHASE ORDER REQUIRED:** The County will not accept any goods delivered or services performed unless a duly authorized purchase order has been issued for said goods and/or services. The purchase order number must appear on all invoices, packing slips and all correspondence concerning the order.
- r. **ORDER/CONTRACT:** Vendor agrees that by submitting an offer, which is accepted by Palm Beach County, a binding contract is formed in accordance with the County's terms, conditions and specifications as set forth in this purchase order, unless otherwise agreed by the County and the vendor. Vendor certifies that the offer has been made by an officer or employee having the authority to bind the vendor.
- s. **DELIVERIES:** Deliveries are to be made Monday through Friday, excluding holidays, unless otherwise stipulated.
- t. **INSPECTION/ACCEPTANCE:** All goods and/or services provided on this order/contract are subject to inspection and acceptance upon receipt or completion by an authorized representative of the County. Payment shall not be authorized until the goods and/or services have been received, accepted and properly invoiced.
- u. **QUANTITIES:** Quantities specified in the order/contract cannot be changed without County approval. Goods shipped in excess of quantity designated may be returned at vendor's expense.
- v. **INSURANCE REQUIREMENTS:** If vendor is providing a service under this order/contract, then vendor shall, at its sole expense, maintain in full force and effect at all times during the life of this order/contract, insurance coverages and limits (including endorsements), as required by the County. These requirements shall not in any manner limit or qualify the liabilities and obligations assumed by the vendor under this order/contract. All coverages shall be provided on a primary basis with the County endorsed as an Additional Insured with a CG 2026 additional Insured- Designated Person or Organization Endorsement, or its equivalent, as follows: "Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, it's Officers, Employees and Agents." Vendor shall provide the County with a Certificate of Insurance evidencing such coverages prior to the commencement of any services and within a time frame specified by the County (normally within 2 working days of request). Failure to maintain the required insurance shall be considered a default of contract.
- w. **SAFETY DATA SHEETS (SDS):** Any toxic substance provided to the County as a result of this solicitation, resultant order/contract, and/or order/contract shall be accompanied by its SDS.
- x. **ENDORSEMENTS:** No endorsements by the County of the goods and/or services will be used by the vendor in any way, manner or form.
- y. **ANNUAL APPROPRIATIONS:**
The County's performance and obligation to pay under this order/contract is contingent upon an annual appropriation by the Board of County Commissioners for subsequent fiscal years.
- z. **DRUG-FREE WORKPLACE:** The Vendor shall implement and maintain a drug-free workplace program of at least the following items:
 - I. 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.
 - II. Inform employees about the dangers of drug abuse in the workplace, the Vendor'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.
 - III. Give each employee engaged in providing the services that are under contract a copy of the statement specified in Item Number 1 above.

- IV. In the statement specified in Item Number 1 above, notify the employees that, as a condition of providing the services that are under order/contract, the employee will abide by the terms of the statement and will notify the Vendor 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 or plea.
- V. 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, for any employee who is so convicted or so pleads.
- VI. Make a good faith effort to continue to maintain a drug-free workplace through implementation of section 287.087, Florida Statutes.

Effective from 04/30/2024