

**FORM OF AGREEMENT
BETWEEN LEVY COUNTY AND
FOR**

REDISTRICTING CONSULTING SERVICES

This Agreement is made and entered into by and between LEVY COUNTY, a political subdivision of the State of Florida, P.O. Box 310, Bronson, FL 32621 (hereinafter referred to as "County"), and _____, (hereinafter referred to as "_____" or the "Contractor") on this _____ day of _____, 2021.

WITNESSETH:

WHEREAS, County issued Request for Proposals RFP_2021_004 to be used for selection of qualified individual or entity to provide redistricting consulting services to the County (herein "the RFP"), in accordance with applicable procurement policies and procedures; and

WHEREAS, _____ submitted a proposal in response to the RFP, and was subsequently selected by County as the company to provide services requested by the RFP; and

WHEREAS, County desires to acquire redistricting consulting services from _____, and _____ desires to provide such services in accordance with the RFP, and _____'s proposal;

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payment hereinafter set forth, County and _____ agree as follows:

ARTICLE 1

INCORPORATION OF DOCUMENTS

1.1 The RFP, consisting of pages 1 through 37 and including RFP_2021_004, the Addendum to RFP_2021_004 dated _____, 2021, issued by County, the Proposal submitted by _____ dated _____, 2021, all filed with the Procurement Department of Levy County, are hereby specifically made part of this Agreement as if same had been set forth at length herein.

In the event of any conflict between the documents constituting this Agreement, the documents shall be given precedence in the following order:

- 1) This Agreement;
- 2) RFP_2021_004, including and addenda issued thereto; and
- 3) The Proposal submitted by _____ dated _____, 2021.

ARTICLE 2

_____'S DUTIES

2.1 _____ agrees to perform all the services and provide all the materials requested by the RFP, and described in the Scope of Services of the RFP. _____

shall perform all the services and provide all materials in strict accordance with the provisions contained herein. _____ shall perform all services under the Scope of Services in a professional workmanlike manner, with such professional care, technical skill, ability and diligence as required of similar redistricting consulting service professionals having the level of skill, expertise and specialized knowledge, as represented to County, both orally and in writing, to be possessed by _____.

2.2 _____ agrees that, to the best of its ability, the key personnel identified in the Proposal will be retained by _____ throughout the term of this Agreement. In the event that _____ is unable to retain any of the key personnel identified in its Proposal, it shall provide prompt notice of such event to County, along with the names and qualifications of a replacement for such key personnel.

2.3 Compliance with Laws

_____ shall comply with all federal, state, and local statutes, laws, ordinances, resolutions and regulations in the performance of its obligations under this agreement.

2.4 Compliance with Chapter 119, Florida Statutes

(a) In addition to compliance with any other laws as required by this Agreement, _____, shall comply with the public records laws of the State of Florida contained in Chapter 119, Florida Statutes, as the same may be amended. Failure to comply with the provision of this subsection shall constitute a substantial failure to perform on the part of _____ in accordance with the terms of this Agreement. Specifically, but not by way limitation, _____ shall:

- (i) Keep and maintain public records by County to perform the services;
- (ii) Upon request by County’s custodian of public records, provide 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;
- (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 term of this Agreement and following completion of the services to be provided by _____ under this Agreement if _____ does not transfer the records to County; and
- (iv) Upon completion of the services to be provided under this Agreement, transfer, at no cost, to County all public records in possession of _____ or keep and maintain public records required by County to perform the services. If _____ transfers all public records to County upon completion of this Agreement, _____ shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If _____ keeps and maintains public records upon completion of this Agreement, _____ shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County, upon request from County’s custodian of public records, in a format that is compatible with the information technology systems of County.

(b) The definitions contained in Chapter 119, Florida Statutes, apply to terms used in this section, unless alternate or more specific definitions for any such terms are provided in this Agreement.

(c) For purposes of this Agreement, the term “custodian of public records” shall mean the County Coordinator or County or his/her designee.

(d) **IF _____ HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO _____’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:**

TELEPHONE: (352) 486-5218

EMAIL: LEVYBOCC@LEVYCOUNTY.ORG

MAILING ADDRESS: P.O. BOX 310, BRONSON, FL 32621

2.5 During the performance of this Agreement, in the event any services to be performed by the Contractor are or may be funded by federal funds or may be reimbursable by federal funds, the Contractor, for itself, its subcontractors, and any assignees and successors in interest agrees as follows:

(a) *Equal Employment Opportunity:* The Contractor shall comply with the regulations relative to equal employment opportunity in federally-assisted construction contracts, as they may be amended from time to time, contained in Appendix II to 2 CFR Part 200, specifically as contained in 41 CFR 6-01.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity”, as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR Part 60, as any of the same may be amended, which are herein incorporated by reference and made a part of this Agreement.

(b) *Nondiscrimination:* The Contractor, with regard to any work performed during this Agreement, shall not discriminate on the basis of race, color, national origin, sex, age, disability, religion or family status in the selection and retention of subcontractors, including procurements of materials and leases of equipment. In addition, Contractor shall comply with all applicable laws and regulations that prohibit discrimination based on race, color, national origin, sex, disability, age, creed, and/or prohibit unfair treatment of persons displaced or whose property has been acquired because of federal or federal-aid programs and projects.

(c) *Solicitations for Subcontractors, including Procurements of Materials and Equipment:* In all solicitations made by the Contractor, either by competitive bidding or negotiation for work to be performed under a subcontract, including procurements of materials or leases of equipment; each potential subcontractor or supplier shall be notified by the Contractor of the Contractor’s obligations under this Agreement and any applicable regulations relative to nondiscrimination on the basis of race, color, national origin, sex, age disability, religion or family status.

(d) *Davis-Bacon Act:* The Contractor shall comply with the provisions of the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148), as supplemented by Department of Labor regulations (29 CFR Part 5), as the same may be amended. The prevailing wage determination by the Department of Labor

at the time of performance of the particular services by Contractor which may be subject to federal funding or federal reimbursement shall be accepted by Contractor prior to performance of those services.

(e) *Copeland "Anti-Kickback" Act:* The Contractor shall comply with the provisions of Copeland "Anti-Kickback" Act (40 U.S.C 3145), as supplemented by the Department of Labor regulations (29 CFR Part 3), as the same may be amended. County shall report any suspected violations to the applicable federal funding agency.

(f) *Contract Work Hours and Safety Standards Act:* In the event in the performance of any services by Contractor are anticipated to be in excess of \$100,000, and Contractor employs mechanics or laborers subject to the Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708), as supplemented by Department of Labor regulations (29 CFR Part 5), as the same may be amended, Contractor shall comply with the provisions of 40 U.S.C. 3702 and 3704, as supplemented by such Department of Labor regulations.

(g) *Rights to Inventions Made Under a Contract or Agreement:* (this section intentionally left blank).

(h) *Clean Air Act and Federal Water Pollution Control Act:* Contractor shall comply with all provisions and all applicable standards of the Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as the same may be amended, in the performance of any services pursuant hereto. Any violations of either Act hereunder shall be reported to the applicable federal awarding agency and the Regional Office of the Environmental Protection Agency.

(i) *Energy Policy Conservation Act:* Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act (41 U.S.C. 62101), as the same may be amended.

(j) *Solid Waste Disposal Act:* Contractor shall comply with the provisions of section 6002 of the federal Solid Waste Disposal Act, as amended by the federal Resource Conservation and Recovery Act, as the same may be amended, which include (but are not necessarily limited to): procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR Part 247 (as the same may be amended) that contain the highest percentage of recovered materials practicable, consisting with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the Environmental Protection Agency guidelines.

(l) *Incorporation of Provisions:* The Contractor shall include the provisions of this Section 2.5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by any applicable federal regulations, or directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the state or federal funding agency may direct as a means of enforcing such provisions including sanctions for noncompliance. In the event the Contractor becomes involved in, or is threatened with, litigation with a sub-contractor or supplier as a

result of such direction, the Contractor may request the applicable state or federal funding agency to enter into such litigation to protect the interests of such state or federal funding agency.

(m) *Sanctions for Noncompliance:* In the event of the Contractor's noncompliance with the provisions of this Section 2.5, the County or any applicable state or federal funding agency may impose such contract sanctions as the County or the applicable state or federal funding agency may determine to be appropriate, including, but not limited to: (i) withholding of payments to the Contractor until the Contractor complies, and/or (ii) cancellation, termination or suspension of this Agreement, in whole or in part; and/or (iii) any other further sanctions as may be permitted by the applicable federal regulations governing the applicable federal funding or as are not prohibited by law.

ARTICLE 3

ADDITIONAL SERVICES

3.1 In the event that County desires _____ to perform any additional services not specifically contained in the Scope of Services, the parties shall enter into an addendum to this Agreement to provide for the provision of such additional services by _____ and payment therefor by County.

ARTICLE 4

TERM/TERMINATION

4.1 The term of this Agreement shall begin on the date and year first above written and shall continue until the work described in Article 2 hereof is completed by the contractor and accepted by the County, unless otherwise terminated in accordance herewith. Regardless of the termination date of this Agreement, _____ shall provide the services described in Article 2 hereof within the time(s) set forth in the RFP. Time(s) for any additional services will be provided in an addendum to this Agreement for such additional services.

4.2 This Agreement may be terminated by County, with or without cause, by written notice to _____ of the intent to terminate. Such termination shall be effective thirty (30) days after receipt by _____ of such written notice of intent to terminate. However, no termination for cause will be effective unless _____ is first given ten (10) calendar days after receipt of notice of intent to terminate in which to cure the cause for terminations.

4.3 In the event of termination, _____ shall be entitled to compensation for services rendered and costs incurred through the effective date of termination. All finished or unfinished documents, data, studies, surveys, analyses, sketches, tracings, specifications, plans, designs, design calculations, details, computations, drawings, maps, models, photographs, reports, and other documents prepared by _____ shall become the property of County and shall be delivered by _____ to County immediately upon the effective date of termination.

ARTICLE 5

METHOD OF BILLING AND PAYMENT

5.1 County shall pay to _____ the hourly rates and direct costs, as indicated in _____'s Proposal, for redistricting consulting services as described in the RFP.

5.2 _____ shall submit all billings for payment of services rendered pursuant to the Scope of Services to the applicable County department requesting the services for processing. Billings shall be detailed as to nature of the services performed and shall refer to the particular line item(s) in the Scope of Services to which services apply. Billings shall include a summary of any amounts previously billed and any credits for amount previously paid.

5.3 _____ acknowledges that each billing must be reviewed and approved by the County _____ Director or his/her designee. Should the County _____ Director, or his/her designee, determine that the invoice is not commensurate with services performed, work accomplished or hours expended, _____ shall adjust the invoice accordingly. However, _____ shall be entitled to payment of any portion of an invoice not in dispute.

5.4 Invoices will be subject to, and County shall pay _____'s proper invoices in accordance with, Sections 218.70 through 218.80, Florida Statutes, the Florida Prompt Payment Act.

5.5 In the event budget funds which are sufficient for the County pay the amounts provided under this Agreement are not available, the County shall notify the _____ of such occurrence and this Agreement shall terminate on the last day of the then current fiscal period without penalty or expense to the County.

ARTICLE 6

COUNTY'S RESPONSIBILITIES

6.1 County shall perform the responsibilities contained in this Article 6 in a timely manner so as not to delay the services of _____.

6.2 County shall furnish to _____, upon request of _____ and at County expense, all existing studies, reports and other available data pertinent to the services to be performed under this Agreement which are within the County's possession. However, _____ shall be required to evaluate all materials furnished hereunder using reasonable professional judgment before relying on such materials.

6.3 County shall provide reasonable access and entry to all public property required by _____ to perform the services described in this Agreement. All such access and entry shall be provided at County expense. County shall also use reasonable efforts to obtain permission for reasonable access and entry to any private property required by _____ to perform the services described in this Agreement.

ARTICLE 7

STANDARDS AND CORRECTIONS

7.1 _____ shall perform or furnish to County all redistricting consulting services to a level of technical skill, ability, and diligence as required for redistricting consulting professionals having the level of skill, expertise and specialized knowledge, as represented to the County, both orally and in writing, to be possessed by _____, all in accordance with the standards contained elsewhere in this Agreement and in accordance with generally accepted standards of professional redistricting consulting service practice and with the laws, statutes, ordinances, codes, rules and

regulations governing _____'s profession. The same standards of care shall be required of any subconsultant or subcontractor engaged by _____.

7.2 _____ shall, without additional compensation, correct and revise any errors, omissions, or other deficiencies in its work product, services, or materials arising from the negligent act, error or omission of _____ or any subconsultant or subcontractor engaged by _____ under this Agreement. The foregoing shall be construed as an independent duty to correct rather than a waiver of County's rights under any applicable statute of limitations. County review of, approval of, acceptance of, or payment for any of _____'s work product, services, or materials shall not be construed to operate as a waiver of any of County's rights under this Agreement, or cause of action County may have arising out of the performance of this Agreement. The provisions of this section shall survive termination of this Agreement.

ARTICLE 8

COUNTY PROPERTY

8.1 All documents, data, studies, surveys, analyses, sketches, tracings, specifications, plans, designs, design calculations, details, computations, drawings, maps, models, photographs, reports, and other documents and plans resulting from _____'s services under this Agreement shall become the property of and shall be delivered to County without restrictions or limitations as to use. However, any subsequent to or other than for the specific project for which such items were created, shall be at sole risk of County.

ARTICLE 9

NOTICES

9.1 Any notice required or permitted to be sent hereunder shall be sent by United States first class mail, postage prepaid, or hand-delivered to the parties at the addresses listed below:

If to County:

County Coordinator
P.O. Box 310
Bronson, FL 32621

With a copy to:

(insert applicable county department)

If to _____:

ARTICLE 10

NO CONTINGENT FEES

10.1 _____ certifies that it has not employed or retained any company or person, other than a bona fide employee working solely for _____ 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 _____ any fee, commission, percentage, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, County shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

ARTICLE 11

NO ASSIGNMENT

11.1 This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances by _____ without prior written consent of County. Further, no portion of this Agreement may be performed by subcontractors or subconsultants without written notice to and approval of such action by County.

ARTICLE 12

INDEMNIFICATION

12.1 _____ shall defend, indemnify and hold harmless County and all of County's officers, agents, employees, and volunteers from and against all claims, liability, loss and expense, including reasonable costs, collection expenses, attorneys' fees, and court costs which may arise because of the negligence (whether active or passive), misconduct, or other fault, in whole or in part (whether joint, concurrent, or contributing), of _____, its officers, agents, employees, subcontractors, or volunteers in performance or non-performance or its obligations under this Agreement. _____ recognizes the broad nature of this indemnification and hold harmless clause, as well as the provision of a legal defense to County when necessary, and voluntarily makes this covenant and expressly acknowledges the receipt of such good and valuable consideration provided by County in support of these indemnification, legal defense and hold harmless contractual obligations in accordance with the laws of the State of Florida. This clause shall survive the termination of this Agreement shall not relieve _____ of its liability and obligation to defend, hold harmless and indemnify County as set forth in this section.

Nothing herein shall be construed to extend County's liability beyond that provided in section 768.28, Florida Statutes.

The provisions of this Article shall survive termination of this Agreement.

ARTICLE 13

INSURANCE

13.1 Before performing any work, _____ shall procure and shall continue to maintain, at its sole cost and expense, throughout the term of this Agreement, insurance policies meeting requirements, and in the coverages and amounts all as contained in the RFP.

ARTICLE 14

CONTACT PERSONS

14.1 Upon written request of _____, the County Coordinator shall designate one or more County employees to whom all communications pertaining to the day-to-day conduct of the performance of this Agreement shall be addressed.

ARTICLE 15

SEVERABILITY

15.1 In the event any provision of this Agreement shall be held invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any breach of any provision, term, condition or covenant shall not be construed by the other party as a waiver of any subsequent breach.

ARTICLE 16

TRUTH-IN-NEGOTIATION CERTIFICATE

16.1 In accordance with Section 287.055, Florida Statutes, signature of this Agreement by _____ shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which County determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

ARTICLE 17

GOVERNING LAW/VENUE

17.1 This Agreement shall be governed and construed in accordance with Florida law. In the event litigation arises involving parties in connection with this Agreement, venue for such litigation shall be in Levy County, Florida.

ARTICLE 18

INDEPENDENT CONTRACTOR STATUS

18.1 _____ is an independent contractor and is not an employee, servant, agent, partner or joint venture of the County

IN WITNESS WHEREOF, the parties hereto have caused the execution of these premises as of the date and year first above written.

BOARD OF COUNTY COMMISSIONERS

LEVY COUNTY, FLORIDA

_____, Chair

Date: _____

ATTEST: Danny Shipp, Clerk of the
Circuit Court and Ex-Officio Clerk of
the Board of County Commissioners

Danny Shipp, Clerk

APPROVED AS TO FORM AND

LEGAL SUFFICIENCY:

Interim, County Attorney

By: _____

Title: _____

Date: _____

ATTEST/WITNESS

Secretary of Corporation