

	<b>ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS</b> PROCUREMENT DIVISION	Effective Date: January 1, 2024
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**BOARD OF COUNTY COMMISSIONERS  
ORANGE COUNTY, FLORIDA**

**AMENDMENT NO. 1**

**CONTRACT #Y23-165-JF  
WATERMARK PARK PROPERTY**

By mutual agreement, the contract is changed as follows:

1. The term of the contract is hereby renewed from January 1, 2024 through December 31, 2024.

All other terms, conditions and prices remain unchanged.

IN WITNESS WHEREOF, the parties have executed this amendment on the dates below:

**P & L LAWN MAINTENANCE, INC.**

**BOARD OF COUNTY COMMISSIONERS  
ORANGE COUNTY, FLORIDA**

By: Jason Comas

Julianne Foyil

Print Name: Jason Comas

Julianne Foyil, Buyer

Title: General manager

Procurement Division

Date: 11/9/23

Date: 11/20/2023

## **Contract # Y23-165**

This Contract is made as of the **1st** day of **January, 2023** by and between Orange County, a Political Subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the COUNTY, and **P & L Lawn Maintenance, Inc.**, a corporation authorized to do business in the State of Florida, hereinafter referred to as the CONTRACTOR, whose Federal I.D. is **59-3139021**.

In consideration of the mutual promises contained herein, the COUNTY and the CONTRACTOR agree as follows:

### **ARTICLE 1 - SERVICES**

The CONTRACTOR'S responsibility under this Contract is to provide **Landscape** services in the area of **Watermark Park Property**, as more specifically set forth in the Scope of Services detailed in Exhibit "A".

The COUNTY'S representative/liason during the performance of this Contract shall be **Michael Saldutti**, telephone no. (407) 836-6213, email: Michael.Saldutti@ocfl.net.

### **ARTICLE 2 - SCHEDULE**

The CONTRACTOR shall commence services on January 1, 2023 and complete all services by December 31, 2023.

Reports and other deliverables shall be delivered or completed in accordance with the detailed schedule set forth in Exhibit "A".

This contract may be renewed, by mutual agreement, for additional periods up to a cumulative total of three (3) years at the same prices, terms and conditions. Any change in price, terms or conditions shall be accomplished by written amendment to this contract.

Any order issued during the effective date of this contract, but not completed within that period, shall be completed by the CONTRACTOR within the time specified in the order. The contract shall govern the CONTRACTOR and the COUNTY'S rights and obligations with respect to the extent as if the order were completed during the contract's performance period.

### **ARTICLE 3 - PAYMENTS TO CONTRACTOR**

A. The total amount to be paid by the COUNTY under this Contract for services, shall not exceed twenty-one thousand Dollars (\$21,000.00). The CONTRACTOR will bill the COUNTY on a monthly basis, or as otherwise provided, at the amounts set forth in Exhibit "B" for services rendered toward the completion of the Scope of Work. Where

incremental billing for partially completed items is permitted, the total incremental billings shall not exceed the percentage of estimated completion as of the billing date.

- B. Invoices received from the CONTRACTOR pursuant to this Contract will be reviewed and approved by the user County Department, indicating that services have been rendered in conformity with the Contract and then will be sent to the Finance Department for payment. All invoices must reference this contract number. Invoices will be paid in accordance with the State of Florida Local Government Prompt Payment Act 218.
- C. **Final Invoice:** In order for both parties herein to close their books and records, the CONTRACTOR will clearly state "**final invoice**" on the CONTRACTOR'S final/last billing to the COUNTY. This certifies that all services have been properly performed and all charges and costs have been invoiced to Orange County. Since this account will thereupon be closed, any further charges if not properly included on this final invoice are waived by the CONTRACTOR.
- D. Payment for accepted equipment/goods/services shall be accomplished by submission of an invoice, in duplicate, to:

CFS Fiscal and Operational Support  
Health & Family Services Building  
Attn: Fiscal Support  
2100 E Michigan St.  
Orlando, FL 32806

Fiscal has a new email address for ALL invoices [cfsparks@ocfl.net](mailto:cfsparks@ocfl.net)

A valid invoice shall include the following:

1. Reference to the Delivery Order
2. Service Dates
3. Services Rendered
4. Unit Prices in accordance with the Quote Response Form.

#### **ARTICLE 4 – PERFORMANCE**

##### **A. PERFORMANCE**

**Timely performance is of the essence in the award of this Request for Quotations.** Performance shall be no later than **five (5)** calendar days from receipt of delivery order. Quotes which fail to meet this requirement shall be rejected.

It is hereby understood and mutually agreed to by and between parties hereto that the time of performance is an essential condition of this contract.

Should the Contractor neglect, fail or refuse to provide the services within the time herein specified, then said Contractor does hereby agree as part of the consideration for the awarding of this contract, to pay Orange County the sum extended by the County to contract for like services approved by the Procurement Division for the period from the required scheduled commencement date until performance of services covered in the Request for Quotations is completed.

The Contractor shall, within **five (5)** calendar days from the beginning of such delay, notify the Manager, Procurement Division in writing of the cause(s) of the delay.

**B. FORCE MAJEURE**

1. The Contractor shall not be held responsible for any delay and/or failure in performance of any part of this contract to the extent such delay or failure is caused by explosion, war, embargo, government requirement, civil or military authority, act of God, or other similar causes beyond the Contractor's control so long as the Contractor's delay is not caused by the Contractor's own fault or negligence. That notwithstanding, the Contractor shall notify the County in writing within two (2) hours after the beginning of any such cause that would affect its performance hereunder and the County reserves the right the request additional information that supports the validity of the Contractor's Force Majeure claim. Failure to notify the County in a timely manner of any claim of Force Majeure made pursuant to this section is cause for termination of this contract.
2. If the Contractor's performance is delayed pursuant to this section for a period exceeding two (2) calendar days from the date the County receives the required Force Majeure notice, the County shall have the right to terminate this contract thereafter and shall only be liable to the Contractor for any work performed and validated (if required for payment hereunder) prior to the date of the County's contract termination.
3. If the Contractor's performance is delayed pursuant to this section, the County may, upon written request of the Contractor, agree to equitably adjust the provisions of this contract, including price, performance, and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit the County's right to terminate for convenience.

**ARTICLE 5 - TRUTH IN NEGOTIATION  
CERTIFICATE**

Signature of this Contract by the CONTRACTOR shall act as the execution of the truth- in- negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete and current as of the date of the Contract and no higher than those charged the CONTRACTOR'S most favored customer for the same or substantially similar service.

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or non-current wage rates or due to inaccurate representations of fees paid to outside Contractors. The COUNTY shall exercise its right under this "Certificate" within one (1) year following final payment.

**ARTICLE 6 - TERMINATION**

**A. Termination for Default:**

The COUNTY may, by written notice to the CONTRACTOR, terminate this contract for default in whole or in part (delivery orders, if applicable) if the CONTRACTOR fails to:

1. Provide products or services that comply with the specifications herein or fails to meet the COUNTY'S performance standards
2. Deliver the supplies or to perform the services within the time specified in this contract or any extension.
3. Make progress so as to endanger performance of this contract
4. Perform any of the other provisions of this contract.

Prior to termination for default, the COUNTY will provide adequate written notice to the CONTRACTOR through the Manager, Procurement, affording them the opportunity to cure the deficiencies or to submit a specific plan to resolve the deficiencies within ten (10) days (or the period specified in the notice) after receipt of the notice. Failure to adequately cure the deficiency shall result in termination action. Such termination may also result in suspension or debarment of the CONTRACTOR in accordance with the County's Procurement Ordinance. The CONTRACTOR and its sureties (if any) shall be liable for any damage to the COUNTY resulting from the CONTRACTOR's default of the contract. This liability includes any increased costs incurred by the COUNTY in completing contract performance.

In the event of termination by the COUNTY for any cause, the CONTRACTOR will have, in no event, any claim against the COUNTY for lost profits or compensation for lost opportunities. After a receipt of a Termination Notice and except as otherwise directed by the COUNTY the CONTRACTOR shall:

1. Stop work on the date and to the extent specified.
2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.
3. Transfer all work in process, completed work, and other materials related to the terminated work as directed by the COUNTY.
4. Continue and complete all parts of that work that have not been terminated.

Neither CONTRACTOR nor COUNTY shall be liable, nor may cancel this contract for default, when delays arise out of causes beyond the control of CONTRACTOR or COUNTY. Such causes may include but are not restricted to acts of God, acts of COUNTY in sovereign capacity, fires, floods, lightning strikes, epidemics, quarantine restrictions, strikes, freight embargoes, wars, civil disturbances, work stoppage, power failures, laws, regulations, ordinances, acts or orders of any governmental agency or official thereof, and unusually severe weather. In every case, the delay must be beyond the control of the claiming party. If CONTRACTOR is delayed in its performance as a result of the above causes, COUNTY, shall upon written request of CONTRACTOR, agree to equitably adjust the provisions of this contract, including price and delivery, as may be affected by such delay. However, this provision shall not be interpreted to limit COUNTY'S right to terminate for convenience.

**B. Termination for Convenience**

The COUNTY, by written notice, may terminate this contract, in whole or in part, when it is in the County's interest. If this contract is terminated, the COUNTY shall be liable only for goods or services delivered and accepted. The COUNTY Notice of Termination shall provide the CONTRACTOR thirty (30) days prior notice before it becomes effective. **A termination for convenience may apply to individual delivery orders, purchase orders or to the contract in its entirety.**

#### **ARTICLE 7 - FEDERAL AND STATE TAX**

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

The CONTRACTOR shall be responsible for payment of its own and its share of its employee FICA and Social Security benefits with respect to this Contract.

#### **ARTICLE 8 - AVAILABILITY OF FUNDS**

The COUNTY'S performance and obligation to pay under this Contract is contingent upon an annual appropriation for its purpose by the Board of County Commissioners, or other specified funding source for this procurement.

#### **ARTICLE 9 - INSURANCE REQUIREMENTS:**

CONTRACTOR agrees to maintain on a primary basis and at its sole expense, at all times throughout the duration of this contract the following types of insurance coverage with limits and on forms (including endorsements) as described herein. These requirements, as well as the County's review or acceptance of insurance maintained by CONTRACTOR is not intended to and shall not in any manner limit or qualify the liabilities assumed by CONTRACTOR under this contract. CONTRACTOR is required to maintain any coverage required by federal and state workers' compensation or financial responsibility laws including but not limited to Chapter 324 and 440, Florida Statutes, as may be amended from time to time.

The CONTRACTOR shall require and ensure that each of its sub-Vendors/sub-Contractors providing services hereunder (if any) procures and maintains until the completion of their respective services, insurance of the types and to the limits specified herein.

Insurance carriers providing coverage required herein must be licensed to conduct business in the State of Florida and must possess a current A.M. Best's Financial Strength Rating of A- Class VIII or better.

(Note: State licenses can be checked via [www.floir.com/companysearch/](http://www.floir.com/companysearch/) and A.M. Best Ratings are available at [www.ambest.com](http://www.ambest.com))

Required Coverage:

- Commercial General Liability - The CONTRACTOR shall maintain coverage issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with a limit of liability of not less than \$1,000,000 (one million dollars)

per occurrence. CONTRACTOR further agrees coverage shall not contain any endorsement(s) excluding or limiting Product/Completed Operations, Contractual Liability, or Separation of Insureds. The General Aggregate limit shall either apply separately to this contract or shall be at least twice the required occurrence limit.

Required Endorsements:

- Additional Insured-CG 20 26 or CG 20 10/CG 20 37 or their equivalents.  
Note: CG 20 10 must be accompanied by CG 20 37 to include products/completed operations
- Waiver of Transfer of Rights of Recovery-CG 24 04 or its equivalent.  
Note: If blanket endorsements are being submitted please include the entire endorsement and the applicable policy number
- Business Automobile Liability - The CONTRACTOR shall maintain coverage for all owned; non-owned and hired vehicles issued on the most recent version of the ISO form as filed for use in Florida or its equivalent, with limits of not less than \$500,000 (five hundred thousand dollars) per accident. In the event the CONTRACTOR does not own automobiles the CONTRACTOR shall maintain coverage for hired and non-owned auto liability, which may be satisfied by way of endorsement to the Commercial General Liability policy or separate Business Auto Liability policy.
- Workers' Compensation - The CONTRACTOR shall maintain coverage for its employees with statutory workers' compensation limits, and no less than \$100,000 (ONE hundred thousand dollars) each incident of bodily injury or disease for Employers' Liability. Elective exemptions as defined in Florida Statute 440 will be considered on a case-by-case basis. Any CONTRACTOR using an employee leasing company shall complete the Leased Employee Affidavit

Required Endorsements:

- Waiver of Subrogation- WC 00 03 13 or its equivalent (EXHIBIT D)

Additional Coverage:

- Pesticide Herbicide Application Liability- with a limit of not less than \$1,000,000 per occurrence/claim
- Pollution Liability- with a limit of not less than \$1,000,000 per occurrence/claim

When a self-insured retention or deductible exceeds \$100,000 the COUNTY reserves the right to request a copy of CONTRACTOR most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis the CONTRACTOR agrees to maintain a retroactive date prior to or equal to the effective date of this contract. In the event the policy is canceled, non-

renewed, switched to occurrence form, or any other event which triggers the right to purchase a Supplemental Extended Reporting Period (SERP) during the life of this contract the CONTRACTOR agrees to purchase the SERP with a minimum reporting period of not less than two years. Purchase of the SERP shall not relieve the CONTRACTOR of the obligation to provide replacement coverage.

By entering into this contract CONTRACTOR agrees to provide a waiver of subrogation or a waiver of transfer of rights of recovery, in favor of the County for the workers' compensation and general liability policies as required herein. When required by the insurer or should a policy condition not permit the CONTRACTOR to enter into a pre-loss agreement to waive subrogation without an endorsement, then CONTRACTOR agrees to notify the insurer and request the policy be endorsed with a Waiver of Subrogation or a Waiver of Transfer of Rights of Recovery Against Others endorsement.

Prior to execution and commencement of any operations/services provided under this contract the CONTRACTOR shall provide the COUNTY with current certificates of insurance evidencing all required coverage. In addition to the certificate(s) of insurance the CONTRACTOR shall also provide endorsements for each policy as specified above. All specific policy endorsements shall be in the name of the Orange County Board of County Commissioners.

For continuing service contracts renewal certificates shall be submitted immediately upon request by either the COUNTY or the COUNTY's contracted certificate compliance management firm. The certificates shall clearly indicate that the CONTRACTOR has obtained insurance of the type, amount and classification as required for strict compliance with this insurance section. CONTRACTOR shall notify the COUNTY not less than thirty (30) business days (ten business days for non-payment of premium) of any material change in or cancellation/non-renewal of insurance coverage. The CONTRACTOR shall provide evidence of replacement coverage to maintain compliance with the aforementioned insurance requirements to the COUNTY or its certificate management representative five (5) business days prior to the effective date of the replacement policy (ies).

The certificate holder shall read:

Orange County, Florida  
Risk Management Division  
109 E. Church Street, Suite 200  
Orlando, Florida 32801

#### **ARTICLE 10 - INDEMNIFICATION**

To the fullest extent permitted by law, the CONTRACTOR shall defend, indemnify, and hold harmless the COUNTY, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, cost and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or in part by any act or omission of the CONTRACTOR or its subcontractors (if any), anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the COUNTY.

#### **ARTICLE 11 - SUCCESSORS AND ASSIGNS**



The COUNTY and the CONTRACTOR each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract. Except as above, neither the COUNTY nor the CONTRACTOR shall assign, sublet, convey or transfer its interest in this Contract without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the COUNTY which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the COUNTY and the CONTRACTOR.

#### **ARTICLE 12 - REMEDIES**

This Contract shall be governed by the laws of the State of Florida. Venue for any litigation involving this contract shall be the Circuit Court in and for Orange County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or at equity or 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.

#### **ARTICLE 13 - UNIFORM COMMERCIAL CODE**

The Uniform Commercial Code (Florida Statutes, Chapter 672) shall prevail as the basis for contractual obligations between the CONTRACTOR and the COUNTY for any terms and conditions not specifically stated in this Contract.

#### **ARTICLE 14 - CONFLICT OF INTEREST**

The CONTRACTOR represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder, as provided for in Florida Statutes 112.311. The CONTRACTOR further represents that no person having any interest shall be employed for said performance.

The CONTRACTOR shall promptly notify the COUNTY in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the CONTRACTOR'S judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the CONTRACTOR may undertake and request an opinion of the COUNTY as to whether the association, interest or circumstance would, in the opinion of the COUNTY, constitute a conflict of interest if entered into by the CONTRACTOR. The COUNTY agrees to notify the CONTRACTOR of its opinion by certified mail within thirty (30) days of receipt of the notification by the CONTRACTOR. If, in the opinion of the COUNTY, the prospective business association, interest or circumstance would not constitute a conflict of interest by the CONTRACTOR, the COUNTY shall so state in the notification and the CONTRACTOR shall, at its option, enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the COUNTY by the CONTRACTOR under the terms of this Contract.

#### **ARTICLE 15 - EXCUSABLE DELAYS**

The CONTRACTOR shall not be considered in default by reason of any failure in performance if such failure arises out of causes reasonably beyond the control of the CONTRACTOR or its sub-Contractors and without their fault or negligence. Such causes include, but are not limited to: acts of God; natural or public health emergencies; labor disputes; freight embargoes; and abnormally severe and unusual weather conditions.

Upon the CONTRACTOR'S request, the COUNTY shall consider the facts and extent of any failure to perform the work and, if the CONTRACTOR'S failure to perform was without it or its sub-Contractor's fault or negligence, the Contract Schedule and/or any other affected provision of this Contract shall be revised accordingly; subject to the COUNTY'S right to change, terminate, or stop any or all work at any time.

#### **ARTICLE 16 - ARREARS**

The CONTRACTOR shall not pledge the COUNTY'S credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness. The CONTRACTOR further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Contract.

#### **ARTICLE 17 - DISCLOSURE AND OWNERSHIP OF DOCUMENTS**

The CONTRACTOR shall deliver to the COUNTY for approval and acceptance, and before being eligible for final payment or any amounts due, all documents and materials prepared by and for the COUNTY under this Contract.

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

The COUNTY and the CONTRACTOR shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

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

#### **ARTICLE 18 - INDEPENDENT CONTRACTOR RELATIONSHIP**

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

as employees or agents of the COUNTY.

The CONTRACTOR does not have the power or authority to bind the COUNTY in any promise, agreement or representation other than as specifically provided for in this Agreement.

#### **ARTICLE 19 - ACCESS AND AUDITS**

The CONTRACTOR shall establish and maintain a reasonable accounting system, which enables ready identification of CONTRACTOR'S cost of goods/services and use of funds. Such accounting system shall also include adequate records and documents to justify all prices for all items invoiced as well as all charges, expenses and costs incurred in providing the goods/services for at least five (5) years after completion of this contract. The COUNTY or its designee shall have access to such books, records, subcontract(s), financial operations, and documents of the CONTRACTOR or its sub-Contractors as required to comply with this section for the purpose of inspection or audit anytime during normal business hours at the CONTRACTOR'S place of business. This right to audit shall include the CONTRACTOR'S sub-Contractors used to procure goods or services under the contract with the COUNTY. CONTRACTOR shall ensure the COUNTY has these same rights with sub-Contractor(s) and suppliers.

#### **ARTICLE 20 - EQUAL OPPORTUNITY**

It is hereby declared that equal opportunity and nondiscrimination shall be the County's policy intended to assure equal opportunities to every person, regardless of race, religion, sex, sexual orientation and gender expression/identity, color, age, disability or national origin, in securing or holding employment in a field of work or labor for which the person is qualified, as provided by Section 17-314 of the Orange County Code and the County Administrative Regulations.

Further, the CONTRACTOR shall abide by the following provisions:

- A. The CONTRACTOR shall represent that the CONTRACTOR has adopted and maintains a policy of nondiscrimination as defined by applicable County ordinance throughout the term of this contract.
- B. The CONTRACTOR shall allow reasonable access to all business and employment records for the purpose of ascertaining compliance with the non-discrimination provision of the contract.
- C. The provisions of the prime contract shall be incorporate by the CONTRACTOR into the contracts of any applicable subcontractors.

#### **ARTICLE 21 - ENTIRETY OF CONTRACTUAL AGREEMENT**

The COUNTY and the CONTRACTOR agree that this Contract sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein. None of the provisions, terms and conditions contained in this Contract may be added to, deleted, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

#### **ARTICLE 22 - ENFORCEMENT COSTS**

If any legal action or other proceeding is brought for the enforcement of this Contract, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of

this Contract, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all expenses (including taxes) even if not taxable as court costs (including, without limitation, all such fees, costs and expenses incident to appeals), incurred in that action or proceeding, in addition to any other relief to which such party or parties may be entitled.

### **ARTICLE 23 - AUTHORITY TO PRACTICE**

The CONTRACTOR hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to, conduct its business, and that it will at all times conduct its business activities in a reputable manner. Proof of such licenses and approvals shall be submitted to the COUNTY upon request.

### **ARTICLE 24 - SEVERABILITY**

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

### **ARTICLE 25 - MODIFICATIONS OF WORK**

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

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

If the COUNTY elects to make the change, the COUNTY shall issue a Contract Amendment or Change Order and the CONTRACTOR shall not commence work on any such change until such written amendment or change order has been issued and signed by each of the parties.

### **ARTICLE 26 - CONTRACT CLAIMS**

"Claim" as used in this provision means a written demand or written assertion by one of the contracting parties seeking as a matter of right, the payment of a certain sum of money, the adjustment or interpretation of contract terms, or other relief arising under or relating to this contract.

Claims made by a Contractor against the County relating to a particular contract shall be submitted to the Procurement Manager in writing clearly labeled "Contract Claim" requesting a final decision. The Contractor also shall provide with the claim a certification as follows: "I certify that the claim is made in good faith; that the supporting data are accurate and complete to the best of my knowledge and belief; that the amount requested accurately reflects the contract

adjustment for which the Contractor believes the County is liable; and that I am duly authorized to certify the claim on behalf of the Contractor.”

**Failure to document a claim in this manner shall render the claim null and void. Moreover, no claim shall be accepted after final payment of the contract.**

The decision of the Procurement Manager shall be issued in writing and shall be furnished to the Contractor. The decision shall state the reasons for the decision reached. The Procurement Manager shall render the final decision within sixty (60) days after receipt of Contractor’s written request for a final decision. The Procurement Manager’s decision shall be final and conclusive.

The Contractor shall proceed diligently with performance of this contract pending final resolution of any request for relief, claim, appeal or action arising under the contract and shall comply with any final decision rendered by the Manager of Procurement.

## **ARTICLE 27 - REQUIREMENTS CONTRACT**

This is a Requirements Contract and the COUNTY shall order from the CONTRACTOR all of the supplies and/or services specified in the contract’s price schedule that are required to be purchased by the COUNTY. If the COUNTY urgently requires delivery of goods or services before the earliest date that delivery may be required under this contract, and if the CONTRACTOR will not accept an order providing for accelerated delivery, the COUNTY may acquire the goods or services from another source.

Except as this contract may otherwise provide, if the COUNTY’S requirements do not result in orders in the quantities described as “estimated” in the contract’s price schedule, that fact shall not constitute the basis for an equitable adjustment.

## **ARTICLE 28 - TOBACCO FREE CAMPUS**

All Orange County operations under the Board of County Commissioners shall be tobacco free. This policy shall apply to parking lots, parks, break areas and worksites. It is also applicable to contractors and their personnel during contract performance on county-owned property. Tobacco is defined as tobacco products including, but not limited to, cigars, cigarettes, e-cigarettes, pipes, chewing tobacco and snuff. Failure to abide by this policy may result in civil penalties levied under Chapter 386, Florida Statutes and/or contract enforcement remedies.

## **ARTICLE 29 – VERIFICATION OF EMPLOYMENT STATUS**

The Contractor is required to be registered with the U.S. Department of Homeland Security’s E-Verify system prior to entering into a contract with Orange County. The Contractor shall use the E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the contract term. The Contractor shall include an express provision in all of its subcontracts requiring subcontractors, who perform work or provide services pursuant to the contract, to use the E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term. For more information on this process, please refer to United States Citizenship and Immigration Service site at:

<http://www.uscis.gov/portal/site/uscis>.

**Only those employees determined eligible to work within the United States shall be employed under this contract.**

By submission of a bid in response to this solicitation, the Contractor affirms that all employees in the above categories shall undergo e-verification before placement on this contract. The Contractor shall commit to comply with this requirement by completing the E-Verification certification, attached to this solicitation.

A public employer, contractor, or subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated Section 448.09(1), Florida Statutes is obligated to terminate the contract with the person or entity pursuant to Section 448.095(2)(c)1, Florida Statutes. If Orange County terminates the contract for the foregoing reason, the contractor may not be awarded a public contract for at least one (1) year after the date on which the contract was terminated, and the contractor will be liable for any additional costs incurred by Orange County as a result of the termination of the contract.

**ARTICLE 30 – LAWS AND REGULATIONS**

All applicable Federal and State laws, municipal and County ordinances shall apply to the Contract.

**ARTICLE 31 – PRICE ESCALATION**

**PRICE ESCALATION/DE-ESCALATION (CPI)**

The County may allow a price escalation provision within this award. The original contract prices shall be firm for the entirety of the initial one (1) year contract period. A price escalation/de-escalation will be considered at the time of contract renewal and at one (1) year intervals thereafter, provided the CONTRACTOR notifies the County, in writing, of the pending price escalation/de-escalation a minimum of sixty (60) days prior to the contract renewal date. Price adjustments shall be based on the latest version of the Consumers Price Index (CPI-U) for All Urban Consumers, All Items, U.S. City Average, non-seasonal, as published by the U.S. Department of Labor, Bureau of Labor Statistics. This information is available at [www.bls.gov](http://www.bls.gov).

Price adjustment shall be calculated by applying the simple percentage model to the CPI data. This method is defined as subtracting the base period index value (at the time of initial award) from the index value at time of calculation (latest version of the CPI published as of the date of request for price adjustment), divided by the base period index value to identify percentage of change, then multiplying the percentage of change by 100 to identify the percentage change. Formula is as follows:

$$\text{Current Index} - \text{Base Index} / \text{Base Index} = \% \text{ of Change}$$

$$\% \text{ of Change} \times 100 = \text{Percentage Change}$$

CPI-U Calculation Example:

CPI for current period Less	232.945
CPI for base period Equals	229.815
index point change Divided	3.130
by base period CPI	229.815
Equals	0.0136
Result multiplied by 100	0.0136 x 100

Equals percent change

1.4%

A price increase may be requested only at each time interval specified above, using the methodology outlined in this section. To request a price increase, CONTRACTOR shall submit a letter stating the percentage amount of the requested increase and adjusted price to the Orange County Procurement Division. The letter shall include the complete calculation utilizing the formula above, and a copy of the CPI-U index table used in the calculation. The maximum allowable increase shall not exceed 4%, unless authorized by the Manager, Procurement Division. If approved, the price adjustment shall become effective on the contract renewal date. All price adjustments must be accepted by the Manager, Procurement Division and shall be memorialized by written amendment to this contract. No retroactive contract price adjustments will be allowed.

Should the CPI-U for All Urban Consumers, All Items, U.S City Average, as published by the U.S. Department of Labor, Bureau of Labor Statistics decrease during the term of the contract, or any renewals, the CONTRACTOR shall notify the Orange County Procurement Division of price decreases in the method outlined above. If approved, the price adjustment shall become effective on the contract renewal date. If the CONTRACTOR fails to pass the decrease on to the County, the County reserves the right to place the CONTRACTOR in default, cancel the award, and remove the CONTRACTOR from the County Vendor List for a period of time deemed suitable by the County. In the event of this occurrence, the County further reserves the right to utilize any options as stated herein.

### **ARTICLE 32 - PUBLIC RECORDS COMPLIANCE**

Orange County is a public agency subject to Chapter 119, Florida Statutes. The CONTRACTOR agrees to comply with Florida's Public Records Law. Specifically, the CONTRACTOR shall:

1. Keep and maintain public records required by Orange County to perform the service.
2. Upon request from Orange County's custodian of public records, provide Orange 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 this chapter or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from the 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 CONTRACTOR does not transfer the records to Orange County.
4. Upon completion of the contract, CONTRACTOR agrees to transfer at no cost to Orange County all public records in possession of the CONTRACTOR or keep and maintain public records required by Orange County to perform the service. If the CONTRACTOR transfers all public record to Orange County upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to Orange County, upon request from Orange County's custodian of public

records, in a format that is compatible with the information technology systems of Orange County.

5. A CONTRACTOR who fails to provide the public records to Orange County within a reasonable time may be subject to penalties under section 119.10, Florida Statutes.

**6. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT :**

Procurement Public Records Liaison  
400 E. South Street, 2nd Floor, Orlando, FL 32801  
[PublicRecordRequest@ocfl.net](mailto:PublicRecordRequest@ocfl.net), 407-836-5635

**ARTICLE 33 - NOTICE**

All notices required in this Contract shall be sent by certified mail, return receipt requested, and if sent to the COUNTY shall be mailed to:

Orange County Procurement Division  
Attention: Julianne Foyil  
Y23-165  
400 E. South St. Orlando,  
FL 32802-1393  
[Procurement@ocfl.net](mailto:Procurement@ocfl.net)

and if sent to the CONTRACTOR shall be mailed to:

P & L Lawn Maintenance, Inc.  
300 N. Goldenrod Road  
Orlando, FL 32807  
Tel: 407-273-9123  
[PNL89@aol.com](mailto:PNL89@aol.com)

**IN WITNESS WHEREOF**, the Board of County Commissioners of Orange County, Florida has made and executed this Contract on behalf of the COUNTY and CONTRACTOR has hereunto set its hand the day and year above written.

CONTRACTOR: BOARD OF COMMISSIONERS  
ORANGE COUNTY, FLORIDA:

P & L Lawn Maintenance, Inc.  
Company Name

Maria Guevara-Hall, CPPB,  
Buyer Supervisor, Procurement Division

Signature

Date



---

Typed Name

---

Title

---

Date

Exhibit A  
SPECIFICATIONS

**I. Scope of Work:**

Provide all materials, supplies, equipment, labor and supervision to provide all grounds maintenance services as described herein on the entire premises at **Watermark Park Property, located at Summerlake Grove Street, Winter Garden, FL 34787.**

**II. Owner's Designated Representative:**

The owner's representative and Contract Administrator is Mike Saldutti at 407-836-6213. After contract award, questions regarding these specifications should be directed to Contract Administrator.

The contractor's representative shall conduct daily service inspection and a monthly site performance inspection with the Performance Administrator (Park Site Supervisor or designee) to be documented on the Quality Assurance Report which will be emailed to the contract and Contract Administrator by the 10<sup>th</sup> of each month. All communication must be provided **in writing** and may be followed-up with a phone call. Deficiencies shall be promptly cured. Orange County Parks shall supply a daily vendor service report to be turned in at end of every service. A monthly vendor service report shall be supplied to the contractor which shall be completed and emailed to the Performance Administrator (Park Site Supervisor or designee) by the fifth of the following month. Upon written notice of any deficiencies the vendor must provide response of the resolution within a **twenty-four (24) hour** period.

These specifications shall be a performance based contract. Grounds shall, at all times, be clean, neat and apparently well-tended. Plants and turf must be green, healthy and weed free. **All grounds shall be brought up to minimum standard within one (1) month of the contract award date.** The lack of inspections by the County or any error or omission in these specifications shall not relieve the Contractor of its obligation to perform landscape management services in accordance with generally accepted industry standards.

**III. General Conditions:**

- A. Contractor shall maintain sole responsibility for the actions of its employees and Sub-contractors.
- B. All personnel provided by the Contractor, whether employees of the Contractor or Sub-contractors, shall be competent, experienced, courteous, properly dressed and skilled in lawn, plant and grounds maintenance.
- C. All maintenance personnel, including subcontractors, must identify themselves at the appropriate administrative office before beginning work. They must be wearing a company issued uniform. **One lead who shall remain onsite, must communicate in English with Park Supervisor or designee.**
- D. Holidays falling on service days will require work to continue or immediately rescheduled for the following business day.

- E. The Monthly Inspection report shall be provided by the Contractor to the County's Performance Administrator (Park Site Supervisor or designee) at the **fifth day** of each month including observations of abnormal conditions and all maintenance performed.
- F. All grass clippings that are not uniformly distributed, and/or detract from the appearance of the mowing operation, or threaten turf health will be removed from the job site by the contractor, upon completion of the mowing operation each day. The Crew Chief should consult Supervisor or designee at conclusion of service. The contractor will remove and dispose of all grass clippings from the pavement, fence lines, sidewalks, curbs and curb inlets located within the limits of the project. **The cost of grass clipping removal will be included in the unit price bid for mowing.**
- G. Mowers shall be maintained to produce a clean cut and a uniform cut. Deficiencies will require a re-mow the same week.
- H. All litter and debris are to be removed from park grounds to the water's edge of lakes and ponds, prior to and upon completion of mowing cycle. Litter and debris removal includes the pickup, removal, and disposal from the County Park of any obstacle such as wood, signs, tires, cans, etc., which cannot be traversed by the mowing equipment. The contractor is responsible for removal of bags of trash, newspapers, food containers, and boxes, papers, which will be torn, ripped, scattered or further subdivided by the mowers, which will result in an objectionable appearance. **The cost of litter removal will be included in the unit price bid for mowing.**

#### IV. Safety:

- A. All materials and performance of work shall meet all Federal, State and local safety laws currently in effect.
- B. Safety Data Sheets shall be submitted to the County's Performance Administrator (Park Site Supervisor or designee) before application of all chemicals intended for use in the performance of these services. All chemicals shall carry an EPA approval number.
- C. Contractor and sub-contractors shall provide and ensure the wearing of necessary protective clothing, masks, eye protection, etc. as required by any applicable laws, regulations, ordinances, and/or manufacturer's instruction.
- D. All equipment used in the performance of these services shall be properly maintained and shall be subject to inspection by the County upon demand. Any equipment deemed faulty, inoperable, unsafe or improper for its intended purpose shall be removed from the County's premises. **Safety features of equipment (shields, kill switches, etc.) must be used at all times.**
- E. The Contractor and any sub-contractors shall take all necessary precautions for the safety of their employees and of the general public. Maintenance work shall be scheduled to provide the least inconvenience to building occupants and passersby.
- F. The Contractor shall be solely responsible for compliance with all sections of Chapter 482, Florida Statutes regarding pest control services including proper licensure whether by the Contractor or a sub-contractor.
- G. Any applications of pesticides or fertilizers must be properly labeled by signs (**placards**) to notify public. Applications must be scheduled 48 hours prior to application via email to Site Supervisor or designee.

**V. Minimum Standards of Performance:**

- A. Reminder all Grounds shall, at all times, be clean, neat and apparently well-tended. **All grounds shall be brought up to minimum standard within one (1) month of the contract award date.** Plants and turf must be green, healthy and weed free.
- B. Grounds shall be mowed or machine trimmed to the water's edge.
- C. Wet ground areas may be omitted from a mowing service to prevent turf damage upon approval of Performance Administrator (Park Site Supervisor or designee)
- D. At no time shall leaves, trash, clippings or other debris be allowed to accumulate.
- E. All organic and inorganic trash, including grass clippings from mowing and edging, shall be blown or vacuumed from all sidewalks, entryways, steps, plazas and parking lots within two hours of mowing or at same day of service.
- F. If any plant or turf area dies or becomes weak or unsightly due to negligence or improper maintenance procedures on the part of the Contractor or any sub-contractor the Contractor shall replace such plant or turf area at the expense of the Contractor. Replacement must be completed within **two (2) weeks** from notification by the Contract Administrator.
- G. No work shall be performed on weekends.

**VI. Landscape Maintenance Services:**

**A. Bahia Turf Areas:**

- 1. Mowing:
  - a. Bush Hog Mowing height for Bahia turf shall be at 3 to 4 inches at time of service.
  - b. Turf shall be mowed once per Month during the first week/five (5) business days of the months.
  - c. Trimming and Edging - hand held mechanical trimming and edging shall be performed around all paved areas, including curbs, sidewalks, and streets to include asphalt, concrete, and etc. at the time of mowing.
- 2. Right of Ways:
  - a. Maintain Right of Ways weekly from March 1<sup>st</sup> to October 31<sup>st</sup> and Bi-weekly from November 1<sup>st</sup> to February 28<sup>th</sup>.

Exhibit B  
FEE SCHEDULE  
Y23-165

The Contractor shall provide all labor and other resources necessary to provide the goods and/or equipment in strict accordance with the specifications defined in this solicitation for the amounts specified in this Fee Schedule Form, inclusive of overhead, profit and any other costs.

ITEM NO.	DESCRIPTION	ANNUAL QUANTITY	X	UNIT PRICE =	TOTAL QUOTE
1	Right of Way weekly Maintenance	12	X	\$1,050.00 / MO	\$12,600.00
2	Open Field Mowing and Maintenance	12	X	\$700.00 / MO	\$8,400.00
<b>TOTAL ESTIMATED ANNUAL OFFER FOB DESTINATION (1+2)</b>					<b>\$21,000.00</b>

P & L Lawn Maintenance, Inc.

Company Name

- Performance shall be not later than five (5) calendar days After Receipt of Order (ARO) per Special Terms and Conditions.

**AUTHORIZED SIGNATORIES/NEGOTIATORS**

The Quoter represents that the following **principals** are authorized to sign quotes, negotiate and/or sign contracts and related documents to which the quoter will be duly bound. Principal is defined as an employee, officer or other technical or professional in a position capable of substantially influencing the development or outcome of an activity required to perform the covered transaction.

Name	Title	Telephone Number/Email

(Signature)	(Date)
(Title)	
(Name of Business)	

The Quoter shall complete and submit the following information with the quote:

**Type of Organization**

Sole Proprietorship       Partnership       Non-Profit  
 Joint Venture\*       Corporation

**State of Incorporation:** \_\_\_\_\_

Principal Place of Business (Florida Statute Chapter 607): \_\_\_\_\_  
City/County/State

**THE PRINCIPAL PLACE OF BUSINESS SHALL BE THE ADDRESS OF THE QUOTER'S PRINCIPAL OFFICE AS IDENTIFIED BY THE FLORIDA DIVISION OF CORPORATIONS.**

Federal I.D. number is: \_\_\_\_\_

\* *Joint venture firms must complete and submit with their Quote Response the form titled "Information for Determining Joint Venture Eligibility", and a copy of the formal agreement between all joint venture parties. This joint venture agreement must indicate the parties' respective roles, responsibilities and levels of participation for the project. **If proposing as a Joint Venture, the Joint Venture shall obtain and maintain all contractually required insurance in the name of the Joint Venture as required by the Contract. Individual insurance in the name of the parties to the Joint venture will not be accepted.** Failure to timely submit the required form along with an attached written copy of the joint venture agreement may result in disqualification of your Quote Response*

## DRUG-FREE WORKPLACE FORM

The undersigned Quoter, in accordance with Florida Statute 287.087 hereby certifies that  
\_\_\_\_\_ does:

Name of Business

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

As the person authorized to sign this statement, I certify that this firm complies fully with above requirements.

\_\_\_\_\_  
Contractor's Signature

\_\_\_\_\_  
Date

**SCHEDULE OF SUBCONTRACTING, RFQ NO. Y23-165-JF**

**As specified in the General Terms and Conditions and in the Special Terms and Conditions, quoters are to present the details of subcontractor participation.**

<b>Name Of Subcontractor</b>	<b>Address</b>	<b>Type of Work to be Performed</b>	<b>Percent and dollar amount of Contract Amount to be Subcontracted</b>

Company Name: \_\_\_\_\_



**CONFLICT/NON-CONFLICT OF INTEREST STATEMENT**

**CHECK ONE**

[ ] To the best of our knowledge, the undersigned quoter has no potential conflict of interest due to any other clients, contracts, or property interest for this project.

**OR**

[ ] The undersigned quoter, by attachment to this form, submits information which may be a potential conflict of interest due to other clients, contracts, or property interest for this project.

**LITIGATION STATEMENT**

**CHECK ONE**

[ ] The undersigned quoter has had no litigation and/or judgments entered against it by any local, state or federal entity and has had no litigation and/or judgments entered against such entities during the past ten (10) years.

[ ] The undersigned quoter, **BY ATTACHMENT TO THIS FORM**, submits a summary and disposition of individual cases of litigation and/or judgments entered by or against any local, state or federal entity, by any state or federal court, during the past ten (10) years.

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
NAME (PRINT OR TYPE)

\_\_\_\_\_  
TITLE

Failure to check the appropriate blocks above may result in disqualification of your quote. Likewise, failure to provide documentation of a possible conflict of interest, or a summary of past litigation and/or judgments, may result in disqualification of your quote.

**E VERIFICATION CERTIFICATION**

**RFQ NO. Y23-165-JF**

**NAME OF CONTRACTOR:** \_\_\_\_\_ (referred to herein as  
"Contractor")

**ADDRESS OF CONTRACTOR:**

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The undersigned does hereby certify that the above named contractor:

1. Is, or will be, registered with and using the E-Verify system prior to execution of the contract with Orange County; or
2. Is, or will be, registered with the E-Verify system prior to execution of the contract with Orange County, but does not have any employees and does not intend to hire any new employees during the period of time that the contractor will be providing services under the contract; or
3. Is, or will be, registered with the E-Verify system prior to execution of the contract with Orange County, but employs individuals who were hired prior to the commencement of providing labor on the contract and does not intend to hire any new employees during the period of time that the contractor will be providing labor under the contract.

The undersigned acknowledges the use of the E-Verify system for newly hired employees is an ongoing obligation for so long as the contractor provides labor under the contract and that the workforce eligibility of all newly hired employees will be properly verified using the E-Verify system.

**In accordance with Section 837.06, Florida Statutes, Contractor acknowledges that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duties shall be guilty of a misdemeanor in the second degree, punishable as provided in Section 775.082 or Section 775.083, Florida Statutes.**

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**RELATIONSHIP DISCLOSURE FORM  
FOR USE WITH PROCUREMENT ITEMS, EXCEPT THOSE WHERE THE COUNTY  
IS THE PRINCIPAL OR PRIMARY QUOTER**

For procurement items that will come before the Board of County Commissioners for final approval, this form shall be completed by the Quoter and shall be submitted to the Procurement Division by the Quoter.

In the event any information provided on this form should change, the Quoter must file an amended form on or before the date the item is considered by the appropriate board or body.

**Part I**

**INFORMATION ON QUOTER:**

Legal Name of Quoter:

\_\_\_\_\_

Business Address (Street/P.O. Box, City and Zip Code):

\_\_\_\_\_

\_\_\_\_\_

Business Phone: (     ) \_\_\_\_\_

Facsimile:           (     ) \_\_\_\_\_

**INFORMATION ON QUOTER'S AUTHORIZED AGENT, IF APPLICABLE:  
(Agent Authorization Form also required to be attached)**

Name of Quoter's Authorized Agent:

\_\_\_\_\_

Business Address (Street/P.O. Box, City and Zip Code):

\_\_\_\_\_

\_\_\_\_\_

Business Phone: (     ) \_\_\_\_\_

Facsimile:           (     ) \_\_\_\_\_

**Part II**

IS THE QUOTER A RELATIVE OF THE MAYOR OR ANY MEMBER OF THE BCC?

\_\_\_\_ **YES** \_\_\_\_ **NO**

IS THE MAYOR OR ANY MEMBER OF THE BCC THE QUOTER'S EMPLOYEE?

\_\_\_\_ **YES** \_\_\_\_ **NO**

IS THE QUOTER OR ANY PERSON WITH A DIRECT BENEFICIAL INTEREST IN THE OUTCOME OF THIS MATTER A BUSINESS ASSOCIATE OF THE MAYOR OR ANY MEMBER OF THE BCC?

\_\_\_\_ **YES** \_\_\_\_ **NO**

If you responded "YES" to any of the above questions, please state with whom and explain the relationship.

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(Use additional sheets of paper if necessary)

**Part III**

**ORIGINAL SIGNATURE AND NOTARIZATION REQUIRED**

I hereby certify that information provided in this relationship disclosure form is true and correct based on my knowledge and belief. If any of this information changes, I further acknowledge and agree to amend this relationship disclosure form prior to any meeting at which the above-referenced project is scheduled to be heard. In accordance with s. 837.06, Florida Statutes, I understand and acknowledge that whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor in the second degree, punishable as provided in s. 775.082 or s. 775.083, Florida Statutes.

\_\_\_\_\_  
Signature of Quoter

\_\_\_\_\_  
Date

Printed Name and Title of Person completing this form:

\_\_\_\_\_  
STATE OF FLORIDA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence, or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ [NAME OF PERSON], as \_\_\_\_\_ [TYPE OF AUTHORITY, ... e.g. officer, trustee, etc.]) for \_\_\_\_\_ [NAME OF PARTY ON BEHALF OF WHOM INSTRUMENT WAS EXECUTED].

Personally Known; OR  
 Produced Identification. Type of identification produced: \_\_\_\_\_.  
[CHECK APPLICABLE BOX TO SATISFY IDENTIFICATION REQUIREMENT OF FLA. STAT. §117.05]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Printed, typed or stamped commissioned name of Notary Public)

**FREQUENTLY ASKED QUESTIONS (FAQ)**  
**ABOUT THE**  
**RELATIONSHIP DISCLOSURE FORM**  
*Updated 6-28-11*

**WHAT IS THE RELATIONSHIP DISCLOSURE FORM?**

The Relationship Disclosure Form (form OC CE 2D and form OC CE 2P) is a form created pursuant to the County's Local Code of Ethics, codified at Article XIII of Chapter 2 of the Orange County Code, to ensure that all development-related items and procurement items presented to or filed with the County include information as to the relationship, if any, between the applicant and the County Mayor or any member of the Board of County Commissioners (BCC). The form will be a part of the backup information for the applicant's item.

**WHY ARE THERE TWO RELATIONSHIP DISCLOSURE FORMS?**

Form OC CE 2D is used only for development-related items, and form OC CE 2P is used only for procurement-related items. The applicant needs to complete and file the form that is applicable to his/her case.

**WHO NEEDS TO FILE THE RELATIONSHIP DISCLOSURE FORM?**

Form OC CE 2D should be completed and filed by the owner of record, contract purchaser, or authorized agent. Form OC CE 2P should be completed and filed by the bidder, offeror, quoter, or respondent, and, if applicable, their authorized agent. In all cases, the person completing the form must sign the form and warrant that the information provided on the form is true and correct.

**WHAT INFORMATION NEEDS TO BE DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM?**

The relationship disclosure form needs to disclose pertinent background information about the applicant and the relationship, if any, between, on the one hand, the applicant and, if applicable, any person involved with the item, and on the other hand, the Mayor or any member of the BCC.

In particular, the applicant needs to disclose whether any of the following relationships exist: (1) the applicant is a business associate of the Mayor or any member of the BCC; (2) any person involved with the approval of the item has a beneficial interest in the outcome of the matter *and* is a business associate of the Mayor or any member of the BCC; (3) the applicant is a relative of the Mayor or any member of the BCC; or (4) the Mayor or any member of the BCC is an employee of the applicant. (See Section 2-454, Orange County Code.)

**HOW ARE THE KEY RELEVANT TERMS DEFINED?**

Applicant means, for purposes of a development-related project, the owner, and, if applicable, the contract purchaser or owner's authorized agent. Applicant means, for purposes of a procurement item, the bidder, offeror, quoter, respondent, and, if applicable, the authorized agent of the bidder, offeror, quoter, or respondent.

Business associate means any person or entity engaged in or carrying on a business enterprise with a public officer, public employee, or candidate as a partner, joint venture, corporate shareholder where the shares of such corporation are not listed on any national or regional stock exchange, or co-owner of property. In addition, the term includes any person or entity engaged in or carrying on a business enterprise, or otherwise engaging in common investment, with a public officer, public employee, or candidate as a partner, member, shareholder, owner, co-owner, joint venture partner, or other investor, whether directly or indirectly, whether

through a Business Entity or through interlocking Parent Entities, Subsidiary Entities, or other business or investment scheme, structure, or venture of any nature. (See Section 112.312(4), Florida Statutes, and Section 2-452(b), Orange County Code.)

*Employee* means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, whether lawfully or unlawfully employed, and includes, but is not limited to, aliens and minors. (See Section 440.02(15), Florida Statutes.)

*Relative* means an individual who is related to a public officer or employee as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, half-sister, grandparent, great grandparent, grandchild, great grandchild, step grandparent, step great grandparent, step grandchild, step great grandchild, person who is engaged to be married to the public officer or employee or who otherwise holds himself or herself out as or is generally known as the person whom the public officer or employee intends to marry or with whom the public officer or employee intends to form a household, or any other natural person having the same legal residence as the public officer or employee. (See Section 112.312(21), Florida Statutes.)

#### **DOES THE RELATIONSHIP DISCLOSURE FORM NEED TO BE UPDATED IF INFORMATION CHANGES?**

Yes. It remains a continuing obligation of the applicant to update this form whenever any of the information provided on the initial form changes.

#### **WHERE DO THE RELATIONSHIP DISCLOSURE FORM AND ANY SUBSEQUENT UPDATES NEED TO BE FILED?**

For a development-related item, the Relationship Disclosure Form and any update need to be filed with the County Department or County Division where the applicant filed the application. For a procurement item, the Relationship Disclosure Form and any update need to be filed with the Procurement Division.

#### **WHEN DO THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES NEED TO BE FILED?**

In most cases, the initial form needs to be filed when the applicant files the initial development-related project application or initial procurement-related forms. However, with respect to a procurement item, a response to a quote will not be deemed unresponsive if this form is not included in the initial packet submitted to the Procurement Division.

If changes are made after the initial filing, the final, cumulative Relationship Disclosure Form needs to be filed with the appropriate County Department or County Division processing the application not less than seven (7) days prior to the scheduled BCC agenda date so that it may be incorporated into the BCC agenda packet. When the matter is a discussion agenda item or is the subject of a public hearing, and an update has not been made at least 7 days prior to BCC meeting date or is not included in the BCC agenda packet, the applicant is obligated to verbally present such update to the BCC when the agenda item is heard or the public hearing is held. When the matter is a consent agenda item and an update has not been made at least 7 days prior to the BCC meeting or the update is not included in the BCC agenda packet, the item will be pulled from the consent agenda to be considered at a future meeting.

**WHO WILL REVIEW THE INFORMATION DISCLOSED ON THE RELATIONSHIP DISCLOSURE FORM AND ANY UPDATES?**

The information disclosed on this form and any updates will be a public record as defined by Chapter 119, Florida Statutes, and may therefore be inspected by any interested person. Also, the information will be made available to the Mayor and the BCC members. This form and any updates will accompany the information for the applicant's project or item.

However, for development-related items, if an applicant discloses the existence of one or more of the relationships described above and the matter would normally receive final consideration by the Concurrency Review Committee or the Development Review Committee, the matter will be directed to the BCC for final consideration and action following committee review.

**CONCLUSION:**

We hope you find this FAQ useful to your understanding of the Relationship Disclosure Form. Please be informed that if the event of a conflict or inconsistency between this FAQ and the requirements of the applicable ordinance or law governing relationship disclosures, the ordinance or law controls.

Also, please be informed that the County Attorney's Office is not permitted to render legal advice to an applicant or any other outside party. Accordingly, if the applicant or an outside party has any questions after reading this FAQ, he/she is encouraged to contact his/her own legal counsel.



**AGENT AUTHORIZATION FORM**

I/We, (Print Quoter name) \_\_\_\_\_, Do hereby authorize (print agent's name), \_\_\_\_\_, to act as my/our agent to execute any petitions or other documents necessary to affect the CONTRACT approval PROCESS more specifically described as follows, (RFQ NUMBER AND TITLE) \_\_\_\_\_, and to appear on my/our behalf before any administrative or legislative body in the county considering this CONTRACT and to act in all respects as our agent in matters pertaining TO THIS CONTRACT.

\_\_\_\_\_  
Signature of Quoter

\_\_\_\_\_  
Date

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence, or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ [NAME OF PERSON], as \_\_\_\_\_ [TYPE OF AUTHORITY, ... e.g. officer, trustee, etc.]) for \_\_\_\_\_ [NAME OF PARTY ON BEHALF OF WHOM INSTRUMENT WAS EXECUTED].

Personally Known; OR  
 Produced Identification. Type of identification produced: \_\_\_\_\_.  
[CHECK APPLICABLE BOX TO SATISFY IDENTIFICATION REQUIREMENT OF FLA. STAT. §117.05]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Printed, typed or stamped commissioned name of Notary Public)

**LEASED EMPLOYEE AFFIDAVIT**

I affirm that an employee leasing company provides my workers' compensation coverage. I further understand that my contract with the employee leasing company limits my workers' compensation coverage to enrolled worksite employees only. My leasing arrangement does not cover un-enrolled worksite employees, independent contractors, uninsured sub-contractors or casual labor exposure.

I hereby certify that 100% of my workers are covered as worksite employees with the employee leasing company. I certify that I do not hire any casual or uninsured labor outside the employee leasing arrangement. I agree to notify the County in the event that I have any workers not covered by the employee leasing workers' compensation policy. In the event that I have any workers not subject to the employee leasing arrangement, I agree to obtain a separate workers' compensation policy to cover these workers. I further agree to provide the County with a certificate of insurance providing proof of workers' compensation coverage prior to these workers entering any County jobsite.

I further agree to notify the County if my employee leasing arrangement terminates with the employee leasing company and I understand that I am required to furnish proof of replacement workers' compensation coverage prior to the termination of the employee leasing arrangement.

I certify that I have workers' compensation coverage for all of my workers through the employee leasing arrangement specified below:

Name of Employee Leasing Company: \_\_\_\_\_

Workers' Compensation Carrier: \_\_\_\_\_

A.M. Best Rating of Carrier: \_\_\_\_\_

Inception Date of Leasing Arrangement: \_\_\_\_\_

I further agree to notify the County in the event that I switch employee-leasing companies. I recognize that I have an obligation to supply an updated workers' compensation certificate to the County that documents the change of carrier.

Name of Contractor: \_\_\_\_\_

Signature of Owner/Officer: \_\_\_\_\_

Title: \_\_\_\_\_ Date: \_\_\_\_\_

## INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY

If the quoter is submitting as a joint venture, please be advised that this form **MUST** be completed and the **REQUESTED** written joint-venture agreement **MUST** be attached and submitted with this form.

**HOWEVER, IF THE QUOTER IS NOT A JOINT VENTURE, CHECK THE FOLLOWING BLOCK: ( ) NOT APPLICABLE**

1. Name of joint venture: \_\_\_\_\_

2. Address of joint venture: \_\_\_\_\_

3. Phone number of joint venture: \_\_\_\_\_

4. Identify the firms which comprise the joint venture: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

5. Describe the role of the MWBE / Labor Surplus Area(LSA) Firm (if applicable) in the joint venture: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

6. Provide a copy of the joint venture's written contractual agreement.

7. What is the claimed percentage of ownership and identify any MWBE/LSA partners (if applicable)?

\_\_\_\_\_

\_\_\_\_\_

**INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY – PAGE 2**

8. Ownership of joint venture: (This need not be filled in if described in the joint venture agreement provided by question 6.)

(a) Profit and loss sharing:

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---

(b) Capital contributions, including equipment:

---

---

(c) Other applicable ownership interests:

---

1. Control of and participation in this contract. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decision making, including, but not limited to, those with prime responsibility for:

(a) Financial decisions: \_\_\_\_\_

(b) Management decisions, such as:

(1) Estimating:

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(2) Marketing and sales:

---

---

---

(3) Hiring and firing of management personnel:

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**INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY – PAGE 3**

(4) Purchasing of major items or supplies:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Supervision of field operations:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NOTE: If, after filing this form and before the completion of the joint venture's work on the subject contract, there is any significant change in the information submitted, the joint venture must inform the County in writing.

\* **Joint venture must be properly registered with the Florida Division of Corporations before the contract award and the name of the Joint Venture must be the same name used in the Quote Response.**

**AFFIDAVIT**

"The undersigned swear or affirm that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide to the County current, complete and accurate information regarding actual joint venture work and the payment therefore and any proposed changes in any of the joint venture. Also, permit authorized representatives of the County to audit and examine records of the joint venture. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

Name of Firm: \_\_\_\_\_ Name of Firm: \_\_\_\_\_

Signature: \_\_\_\_\_ Signature: \_\_\_\_\_

Name: \_\_\_\_\_ Name: \_\_\_\_\_

Title: \_\_\_\_\_ Title: \_\_\_\_\_

Date: \_\_\_\_\_ Date: \_\_\_\_\_

**INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY – PAGE 4**

Date \_\_\_\_\_  
State of \_\_\_\_\_  
County of \_\_\_\_\_

**AFFIDAVIT**

STATE OF FLORIDA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence, or  online notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, by \_\_\_\_\_ [NAME OF PERSON], as \_\_\_\_\_ [TYPE OF AUTHORITY,... e.g. officer, trustee, etc.]) for \_\_\_\_\_ [NAME OF PARTY ON BEHALF OF WHOM INSTRUMENT WAS EXECUTED].

Personally Known; OR  
 Produced Identification. Type of identification produced: \_\_\_\_\_.  
[CHECK APPLICABLE BOX TO SATISFY IDENTIFICATION REQUIREMENT OF FLA. STAT. §117.05]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Printed, typed or stamped commissioned name of Notary Public)

**ORANGE COUNTY, FLORIDA**

*and*

**BUSINESS ASSOCIATE**

**ADDENDUM TO CONTRACT NO. YXX-XXX**

*related to*

**BUSINESS ASSOCIATE ASSURANCE OF COMPLIANCE WITH THE  
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)  
PRIVACY, BREACH AND SECURITY RULES AND THE  
FLORIDA INFORMATION PROTECTION ACT (FIPA)**

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**THIS ADDENDUM** is by and between, **ORANGE COUNTY, FLORIDA** (the “County”), a charter county and political subdivision of the State of Florida, located at 201 South Rosalind Avenue, Orlando, Florida 32801, on behalf of its **COUNTY DEPARTMENT/DIVISION** (the “Covered Healthcare Component”), and **BUSINESS ASSOCIATE NAME** (“Business Associate”), located at **BUSINESS ASSOCIATE ADDRESS**. The County and Business Associate may be referred to herein individually as “Party” or collectively as “Parties”.

**RECITALS**

**WHEREAS**, the County has been designated as a “Hybrid Entity” under the HIPAA Privacy and Security Rules, 45 CFR § 164.105; and

**WHEREAS**, pursuant to 45 CFR § 164.105(a)(2)(iii)(D), the County, as a Hybrid Entity, has documented that its **COUNTY DEPARTMENT/DIVISION** is a “Covered Healthcare Component” of the County and, as such, when the County is acting through its **COUNTY DEPARTMENT/DIVISION**, it must be treated as a “Covered Entity”; and

**WHEREAS**, in connection with the provision of services to the County (collectively referenced to as “Services”) by the Business Associate, the County, through its Covered Healthcare Component, may disclose to the Business Associate certain Protected Health Information (“PHI”) that is subject to protection under the HIPAA Privacy and Security Rules, 45 CFR Parts 160, 162, and 164; and

**WHEREAS**, the HIPAA Privacy and Security Rules require that a Covered Entity, as well as a Hybrid Covered Entity when it is acting through one of its Covered Healthcare Components, receives adequate assurances that the Business Associate will comply with certain obligations with respect to the PHI received in the course of providing Services to, or on behalf of, the Covered Entity or Hybrid Covered Entity; and

**WHEREAS**, the purpose of this Addendum is to comply with the requirements of the HIPAA Privacy and Security Rules, 45 CFR Parts 160, 162, and 164, and the Florida Information

Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable, and as amended; and

**WHEREAS**, the County and Business Associate have entered, or will be entering into, a contract for services known as Contract No. YXX-XXX (the “Agreement”) and the Parties wish to adopt this Addendum to the Agreement in order to ensure that the Services provided by the Business Associate pursuant to the Agreement are provided in compliance with the requirements of the HIPAA Privacy and Security Rules, 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable, and as amended.

**NOW, THEREFORE**, in consideration of the terms, conditions, covenants, agreements and obligations herein stated, the Parties agree as follows:

**Section 1.     Incorporation**

- A. **Recitals Incorporated.** The above recitals are true and correct and are hereby incorporated as a material part of this Addendum.
- B. HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164, and the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable and as amended, are hereby incorporated into this Addendum.
- C. To the extent that this Addendum, or the Agreement, imposes more stringent requirements than those contained in HIPAA Privacy and Security Rules 45 CFR Parts 160, 162, and 164, the Florida Information Protection Act, §501.171, Florida Statutes, and 42 CFR Part 2, where applicable and as amended, those more stringent requirements of this Addendum, or the Agreement, will control.

**Section 2.     Definitions.**

- A. Terms used, but not otherwise defined, in this Addendum shall have the same meaning as those terms in 45 CFR §§ 160.103, 162.103, 164.103, 164.402, and 164.501, and §501.171, Florida Statutes.
  - 1. ***Breach*** shall have the meaning given to such term as found in 45 CFR §164.402, and the Florida Information Protection Act, §501.171, Florida Statutes.
  - 2. ***Designated Record Set*** shall mean a group of records maintained by or for a covered entity that is: (a) the medical records and billing records about individuals maintained by or for a covered health care provider; (b) the enrollment, payment, claims adjudication, and case or medical management record systems maintained by or for a health plan; or (c) used, in whole or in part, by or for the covered entity to make decisions about individuals. For purposes of this paragraph, the term record means any item, collection, or grouping of information that includes PHI and is maintained, collected, used, or disseminated by or for a covered entity.



3. **Disclosure** shall mean the release, transfer, provision of access to, or divulging in any manner of information outside the entity holding the information.
4. **Florida Information Protection Act** shall mean the Florida Information Protection Act (“FIPA”) codified at §501.171, Florida Statutes.
5. **HIPAA Privacy and Security Rules** shall mean the Standards for Privacy, Security, Breach, Notification, and Enforcement at 45 CFR Parts 160, 162 and 164.
6. **Individual** shall mean the person who is the subject of PHI, and shall include a person who qualifies as a personal representative, in accordance with 45 CFR §164.502(g).
7. **Individually Identifiable Health Information** shall mean information that is a subset of health information, including demographic information collected from an individual, and: (a) is created or received by a health care provider, health plan, employer, or health care clearinghouse; (b) relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; or the past, present, or future payment for the provision of health care to an individual; and (c) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual.
8. **Privacy Officer** shall mean the individual designated by the County pursuant to 45 CFR §164.530, who is responsible for the development and implementation of the County’s policies and procedures as they relate to its, and its Covered Healthcare Component’s, compliance with HIPAA Privacy and Security Rules.
9. **Personally Identifiable Information (“PII”)** shall mean either of the following:
  - a. An individual’s initials, first name, or first initial and last name in combination with any one or more of the following data elements for that individual:
    - i. A social security number;
    - ii. A driver’s license or identification card number, passport number, military identification number, or other similar number issued on a government document used to verify identity;
    - iii. A financial account number or credit or debit card number in combination with any required security code, access code, or password that is necessary to permit access to an individual’s financial account;

- iv. Any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional; or
  - v. An individual's health insurance policy number or subscriber identification number and any unique identifier used by a health insurer to identify the individual.
  - vi. Any other identifier, as referenced in the Department of Health & Human Services "Safe Harbor Standards."
  - vii. The term "Personally Identifiable Information" does not include information about an individual that has been made publicly available by a federal, state, or local governmental entity. The term also does not include information that is encrypted, secured, or modified by any other method or technology that removes elements that personally identify an individual or that otherwise renders the information unusable.
- b. A user name or e-mail address, in combination with a password or security question and answer that would permit access to an online account.
  - c. The PII provided pursuant to the Agreement shall be limited to what is necessary for the Business Associate to meet its obligations thereunder.
10. **Protected Health Information ("PHI")** shall mean an individual's identifiable health information that is – or has been – created, received, transmitted, or maintained in any form or medium, on or behalf of the County, with the exception of education records covered by the Family Educational Rights and Privacy Act, 20 U.S.C. 1232g, as amended, and the health care records of students at post-secondary educational institutions or of students eighteen (18) years of age or older, used exclusively for their health care treatment which have not been disclosed to anyone other than a health care provider at the student's request. The PHI provided pursuant to the Agreement shall limited to what is necessary for the Business Associate to meet its obligations thereunder.
11. **Required by Law** shall have the same meaning as the term "required by law" in 45 CFR §164.103.
12. **Secretary of Health and Human Services** shall mean the Secretary of the Health and Human Services ("HHS") or any other officer or employee of HHS to whom the authority involved has been delegated.
13. **Security Incident or Incident** shall mean the attempted or successful unauthorized access, use, disclosure, modification, or destruction of PHI or PII contained in any

form or interference with system operations in an information system that contains PHI or PII.

14. *Use* shall mean the sharing, employment, application, utilization, examination, or analysis of PII or PHI within an entity that maintains such information.

### **Section 3. Scope of Agreement**

- A. **Independent Status of Parties.** The Parties agree that they are, and shall be, independently responsible for complying, and shall independently comply, with the HIPAA Privacy and Security Rules and FIPA, as it may be amended from time to time. The Parties further agree that they are, and shall be, responsible for their own actions and conduct and shall not assume responsibility for the actions and conduct of one another. Additionally, the Parties agree that they shall maintain all corporate formalities establishing separate and individual control by each organization's board of directors, as applicable.
- B. The Business Associate acknowledges that the confidentiality requirements set forth herein shall apply to all of its employees, agents, and representatives. The Business Associate assumes responsibility and liability for any damages or claims, including state and federal administrative proceedings and sanctions brought against the County, including costs and attorneys' fees, resulting from the breach by the Business Associate of the confidentiality requirements of this Addendum.

### **Section 4. Privacy of Protected Health Information and Confidentiality of Personal Information.**

- A. **Permitted Uses and Disclosures of PHI and PII by Business Associate.** The Business Associate may use, or disclose, PHI and PII received from the County to its officers and employees. The Business Associate may disclose PHI and PII to a business associate that is a subcontractor and may allow the subcontractor to create, receive, maintain, or transmit PHI and PII on its behalf if the Business Associate obtains satisfactory assurances, in accordance with 45 CFR §164.504(e)(1)(i) and §501.171(2), that the subcontractor will appropriately safeguard the information. All other uses or disclosures, not otherwise authorized by this Addendum or otherwise governed by law, are prohibited.
- B. **Responsibilities of the Business Associate.** Regarding the use or disclosure of PHI and PII, the Business Associate agrees to:
  1. Only use or disclose the PHI and PII as allowed under this Addendum or otherwise by applicable law.
  2. Only use or disclosure PHI and PII in a manner that would not violate the HIPAA Privacy and Security Rules, or FIPA, if done so by a Covered Entity.

3. Establish and implement appropriate procedures, physical, and technical safeguards to prevent improper access, uses, transmissions, or disclosures of PHI and PII for mitigating, to the greatest extents possible under the circumstances, any deleterious effects from any improper access, use, or disclosure of PHI and PII that the Business Associate reports to the County. Safeguards shall include, but are not limited to: (a) the implementation and use of electronic security measures to safeguard electronic data; (b) requiring employees to agree to access, use, or disclose PHI and PII only as permitted or required by this Addendum; and (c) taking related disciplinary action for inappropriate access, use or disclosure as necessary.
4. Ensure that the Business Associate's subcontractors or agents to whom the Business Associate provides PHI or PII, created received, maintained, or transmitted on behalf County agree to the same restrictions and conditions that apply to the Business Associate with respect to PHI and PII, and ensure that its subcontractors or agents agree to establish and implement reasonable and appropriate safeguards to protect the confidentiality, integrity, and availability of all PHI and PII that it creates receives, maintains, or transmits on behalf of the County.
5. Make the Business Associate's records, books, accounts, agreements, policies, and procedures available to the Secretary of HHS for determining the County's compliance with the HIPAA Privacy and Security Rules, and also, with the State of Florida's Department of Legal Affairs to determine the County's compliance with FIPA.
6. Limit use by, or disclosure to, its subcontractors, agents, and other third parties, to the minimum PHI and PII necessary to perform or fulfill a specific function required or permitted hereunder.
7. Provide information to the County to permit the County to respond to a request by an individual for an accounting of disclosures within five (5) days of receiving a written request from the County, if the Business Associate maintains a Designated Records Set on behalf of the County.
8. At the request of, and in the time and manner designated by, the County, provide access to the PHI and PII maintained by the Business Associate to the County or individual, if the Business Associate maintains a Designated Records Set on behalf of the County.
9. At the request of, and in the time and manner designated by, the County, make any amendment(s) to the PHI and PII when directed by the County, if the Business Associate maintains a Designated Record Set on behalf of the County.
10. Establish and implement administrative, physical, and technical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability

of any PHI and PII the Business Associate creates, receives, maintains, or transmits on behalf of the County.

11. Report to the County any Security Incident involving PHI and PII that the Business Associate discovers in the manner detailed in Section 7 below.
- C. **Compliance with the County's Policies.** The Business Associate hereby agrees to abide by the County's policies and practices for its Covered Healthcare Component that relate to the confidentiality, privacy, and security of PHI and PII.
- D. **Use of PHI and PII for Management and Administration or Legal Responsibilities of the Business Associate.** The Business Associate may use PHI and PII received by the County pursuant to the Agreement for the proper management and administration of the Business Associate or to carry out the legal responsibilities of the Business Associate. However, the Business Associate will only be allowed to use PHI and PII for the aforementioned uses if:
1. the disclosure is required by law; or
  2. the Business Associate obtains reasonable assurances from the person to whom the PHI and PII is disclosed that it will be held confidentially and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notified the Business Associate of any instances in which the person is aware of a confidentiality breach of PHI or PII.
- E. **Data Aggregation Services.** With respect to PHI and PII created or received by the Business Associate in its capacity as the Business Associate of the County, the Business Associate may combine such PHI and PII it has received from the County with the PHI and PII received by the Business Associate in its capacity as a Business Associate of another Covered Entity, or Hybrid Covered Entity, to permit data analysis that relates to the health care operation of the respective Covered Entity, or Hybrid Covered Entity, if data analyses is part of the Services that Business Associate is to provide to the County pursuant to the Agreement.
- F. **Compliance.** The Business Associate agrees to keep all PHI and PII confidential and secure in compliance with the provisions of this Addendum and according to current state and federal laws.

### **Section 5. Confidentiality**

- A. In the course of performing under this Addendum, each Party may receive, be exposed to, or acquire the confidential information including, but not limited to, all information, data, reports, records, summaries, tables, and studies, whether written or oral, fixed in hard copy or contained in any computer database or computer readable form, as well as any information identifiable as confidential ("Confidential Information") of the other Party.

- B. For purposes of this Addendum, Confidential Information shall **not** include PHI, the security and privacy of which is the subject of this Addendum. The Parties, including their employees, agents, or representatives shall:
1. not disclose to any third party the Confidential Information of the other Party except as otherwise permitted by this Addendum, or as mandated by the State of Florida's Public Records Laws;
  2. only permit use of such Confidential Information by employees, agents, and representatives having a need to know in connection with performance under the Agreement; and
  3. advise each of their employees, agents, and representatives of their obligations to keep such Confidential Information confidential.
- C. This provision shall not apply to Confidential Information:
1. after it becomes publicly available through **no fault** of either Party;
  2. which is later publically released by either Party in writing;
  3. which is lawfully obtained from third parties without restrictions; or
  4. which can be shown to be previously known or developed by either Party independently of the other Party.

## **Section 6. Security**

- A. **Security of Electronic Protected Health Information and Personal Information.** The Business Associate will develop, implement, maintain, and use administrative, technical, and physical safeguards that reasonably and appropriately protect the confidentiality, integrity, and availability of electronic PHI (as defined in 45 C.F.R. §160.103) and PII (as defined by §501.171, Florida Statutes) that the Business Associate creates, receives, maintains, or transmits on behalf of the County consistent with the HIPAA Privacy and Security Rules and FIPA.
- B. **Reporting Security Incidents.** The Business Associate will report to the County any Incident of which the Business Associate becomes aware that is:
1. a successful unauthorized access, use or disclosure of Electronic PHI or PII;
  2. a modification or destruction of electronic PHI or PII; or
  3. interference with system operations in an information system containing electronic PHI or PII.

## **Section 7. Reporting Requirements**

- A. **Reporting.** The Business Associate shall make a good faith effort to identify any use or disclosure of protected information not provided for in this Addendum.
- B. **Reporting to the County.**
1. The Business Associate will report to the County within:
    - a. two (2) days of any suspected – or confirmed – access, use, or disclosure of PHI or PII, regardless of form, not permitted or required by this Addendum of which the Business Associate becomes aware; and
    - b. twenty-four (24) hours of discovery, any Security Incident of which the Business Associate is aware.
  2. Such report shall include the identification of each individual whose unsecured PHI and PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, or disclosed during such breach.
  3. Reports of Security Incidents shall include a detailed description of each Incident, at a minimum, to include: (a) the date of the Incident; (b) the nature of the Incident; (c) the information involved, whether the information was accessed, disclosed, used, modified, destroyed, etc.; (d) the identities of the individual(s) and their relationship to the Business Associate; (e) a description of the Business Associate's response to each Incident; (f) and the name and title of the individual the County should contact for additional information.
  4. The Business Associate will conduct such further investigation as is reasonably required by the County and promptly advise the County of additional information pertinent to the Incident.
  5. The Business Associate will cooperate with the County in conducting any required risk analysis related to such Security Incident(s).
  6. The Business Associate will cooperate with the County in complying with any applicable notification requirements pursuant to the Breach Notification Rule and/or pursuant to Florida law (including but not limited to, §§501.171 and 817.5681, Florida Statutes), and in taking steps determined by the County to be necessary to mitigate any potential harm caused by a Security Incident. The Business Associate will pay and/or reimburse the County for any reasonable expenses the County incurs in notifying individuals of, and/or mitigating potential harm caused by, a Security Incident caused by the Business Associate and/or its subcontractors or agents.
- C. **Reporting to Individuals.** In the case of a breach of PHI or PII discovered by the Business Associate, the Business Associate shall first notify the County of the pertinent details of the

breach and, upon prior approval of the County's Privacy Officer, shall notify each individual whose unsecured PHI or PII has been, or is reasonably believed by the Business Associate to have been, accessed, acquired or disclosed as a result of such breach. Such notification shall be in writing by first-class mail to the individual (or the next of kin if the individual is deceased) at the last known address of the individual or next of kin, respectively, or, if specified as a preference by the individual, by electronic mail. Where there is insufficient or out-of-date contact information (including a phone number, email address, or any other form of appropriate communication) that precludes written (or, if specifically requested, electronic) notification to the individual, a substitute form of notice shall be provided, including, in the case that there are ten (10) or more individuals for which there is insufficient or out-of-date contact information, a conspicuous posting on the web site of the Business Associate involved or notice in major print of broadcast media, including major media in the geographic areas where the individuals affected by the breach are likely to reside. In any case deemed by the Business Associate to require urgency because of possible imminent misuse of unsecured PHI or PII, the Business Associate may also provide information to individuals by telephone or other means, as appropriate.

- D. **Reporting to Media.** In the case of a breach of PHI discovered by the Business Associate where the unsecured PHI of more than five hundred (500) persons or unsecured PII of more than five hundred (500) persons is reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall provide notice to prominent media outlets serving the state or relevant portion of the state involved.
- E. **Reporting to HHS and the State of Florida Department of Legal Affairs.** The Business Associate shall cooperate with the County to provide notice to the Secretary of HHS of unsecured PHI and to the State of Florida, Department of Legal Affairs, of unsecured PII that has been acquired or disclosed in a breach. If the breach was with respect to five hundred (500) or more individuals, such notice must be provided immediately. If the breach was with respect to less than five hundred (500) individuals, the Business Associate may maintain a log of such breach occurring and annually submit such log to the County so that it may satisfy its obligation to notify the Secretary of HHS documenting such breaches occurring in the year involved.
- F. **Content of Notices.** All notices and reports required under this Addendum shall include the content set forth 45 C.F.R § 164.404 and FIPA. Notification to individuals, except that references therein to a "Covered Entity," shall be read as references to the Business Associate.
1. Regardless of the method by which notice is provided to individuals under this section, notice of a breach shall include, to the extent possible, the following: (a) a brief description of what happened, including the date of the breach and the date of the discovery of the breach, if known; (b) a description of the types of unsecured PHI and PII that were involved in the breach (such as full name, social security number, date of birth, home address, account number, or disability code); (c) the steps individuals should take to protect themselves from potential harm resulting from the breach; (d) a brief description of what the covered entity involved is doing to investigate the breach, to mitigate losses, and to protect against any further breaches; and (e) contact procedures for individuals to ask questions or learn



additional information, which shall include a toll free telephone number, an e-mail address, web site, or postal address.

- G. **Notice to Credit Reporting Agencies.** In the case of a breach of PII discovered by the Business Associate where the unsecured PII of more than one thousand (1000) individuals has reasonably believed to have been, accessed, acquired, or disclosed, after prior approval by the County, the Business Associate shall notify all consumer reporting agencies nationwide, that complete and maintain files in accordance with the provisions of §501.171(5), Florida Statutes.
- H. **Financial Responsibility.** The Business Associate shall be responsible for all costs related to the notice required by this Section.
- I. **Mitigation.** The Business Associate shall mitigate, to the extent practicable, any harmful effects that are known to the Business Associate of use or disclosure of PHI or PII in violation of this Addendum, the HIPAA Privacy and Security Rules, HITECH Act, and FIPA.
- J. A violation of this Section shall be a material violation of this Addendum.

### **Section 8. Termination**

- A. **Automatic Termination.** The County is authorized to automatically terminate the Agreement, if it determines that the Business Associate has violated a material term of this Addendum.
- B. **Opportunity to Cure or Terminate.** At the County's sole discretion, the County may either: (1) provide notice of breach and an opportunity for the Business Associate to reasonably and promptly cure the breach or end the violation and terminate the Agreement if the Business Associate does not cure the breach, or end the violation within the reasonable time specified by the County; or (2) immediately terminate the Agreement if the Business Associate has breached a material term of this Addendum and cure is not possible.
- C. **Effects of Termination.** Termination of the Agreement shall not affect any claim or rights that may arise based on the acts or omissions of the Parties prior to the effective date of termination.
- D. **Duties of Business Associate Upon Termination of the Agreement.**
1. When the Agreement is terminated, the PHI and PII that the Business Associate received from, created, or received on behalf of the County must be destroyed or returned to the County, at the Business Associate's expense, including all PHI and PII in the possession of the Business Associate's subcontractors or agents. However, if the Business Associate determines that returning or destroying PHI and PII is not feasible, the Business Associate must maintain the privacy protections under this Addendum, and according to applicable law, for as long as the Business Associate retains the PHI and PII, and the Business Associate may only use or disclose the PHI and PII for specific uses or disclosures that make it necessary for the Business Associate to retain the PHI and PII.

2. If the Business Associate determines that it is not feasible for the Business Associate to return PHI or PII in the subcontractor's or agent's possession, the Business Associate must provide a written explanation to the County of such reasons and require the subcontractors and agents to agree to extend any and all protections, limitations, and restrictions contained in this Addendum to the subcontractor's or agent's use or disclosure of any PHI and PII retained after the termination of the Agreement, and to limit any further uses or disclosures for the purposes that make the return or destruction of the PHI or PII not feasible.

### **Section 9. Miscellaneous**

- A. **Agreement Subject to All Applicable Laws.** The Parties recognize and agree that the Agreement, and any and all activities performed thereunder, is governed by federal, state, and local laws, including the regulations, rules, and policies of the U.S. Department of Health and Human Services including, but not limited to, HIPAA Privacy and Security Rules, FIPA, and their accompanying regulations. The Parties further recognize and agree that the Agreement is subject to new legislation as well as amendments to government regulations, rules, and police, and agree to amend this Addendum accordingly.
- B. **No Third Party Beneficiaries.** Nothing expressed or implied in this Addendum is intended to confer, nor shall anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties any rights, remedies, obligations, or liabilities whatsoever.
- C. **Survival.** The rights and obligations of the Parties in Sections 4, 5, 6, 7 in their entirety, as well as subsections 8D., 9E., 9G., and 9H., shall survive termination of the Agreement indefinitely.
- D. **Amendment.** This Addendum may only be revoked, amended, changed, or modified by a written amendment that is executed by both Parties.
- E. **Enforcement Costs and Attorneys Fees.** If any legal action or other proceedings, including arbitration, is brought for the enforcement of this Addendum, or because of an alleged dispute, breach, default, or misrepresentation in connection with any provision of this Addendum, each Party will hereby be responsible for its own costs and attorneys' fees.
- F. **Interpretation.** Any ambiguity in this Agreement shall be resolved in favor of a meaning that permits the County to comply with the Privacy and Security Rules.
- G. **Indemnification.** To the fullest extent permitted by law, the Business Associate shall defend, indemnify, and hold harmless the County, its officials, agents, and employees from and against any and all claims, suits, judgments, demands, liabilities, damages, costs, and expenses (including attorney's fees) of any kind or nature whatsoever arising directly or indirectly out of or caused in whole or part by any act or omission of the Business Associate, anyone directly or indirectly employed by them, or anyone for whose acts any of them may be liable; excepting those acts or omissions arising out of the sole negligence of the County. In the event the

Business Associate is a state department or division, or a political subdivision of the State of Florida, indemnification shall follow the provisions of §768.28, Florida Statutes.

- H. **Signatory Authority.** Each signatory to this Addendum represents and warrants that he or she possesses all necessary capacity and authority to act for, sign, and bind the respective entity or person on whose behalf he or she is signing.
- I. **Governing Law.** This Addendum shall be governed by and construed in accordance with the laws of the State of Florida to the extent not preempted by the HIPPA Privacy Rules or other applicable federal law.
- J. **Notice.** All notices and other communications under this Addendum shall be in writing and shall be deemed received when delivered personally or when deposited in the U.S. mail, postage prepaid, sent registered, or certified mail, return receipt requested, or sent via nationally recognized and receipted overnight courier service, to the Parties at their respective principal office or record as set forth below or as designed in writing from time-to-time. No notice of a change of address shall be effective until received by the other Party(ies).

**To the County:**

Orange County HIPAA Privacy Officer  
2002-A East Michigan Street  
Orlando, FL 32806  
(407) 836-9214

**AND**

Orange County Administrator  
Administration Building, 5th Floor  
201 S Rosalind Avenue  
Orlando, FL 32801

**To the Business Associate:**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- K. **Severability.** If any provision of this Addendum, or the application thereof to any person or circumstance, shall to any extent be invalid or unenforceable, the remainder of this Addendum, or the application of such affected provision to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby, and each provision of this Addendum shall be valid and shall be enforced to the fullest extent permitted by law. It is further the intention of the Parties that if any provision of this Addendum were capable of two constructions, one that rendered the provision void and one that renders the provision valid, then the provision shall have the meaning that renders it valid.

- L. **Successors and Assigns.** The Business Associate shall not assign either its obligations or benefits under this Addendum without the expressed written consent of the County, which shall be at the sole discretion of the County. Given the nature of this Agreement, neither subcontracting nor assignment by the Business Associate is anticipated and the use of those terms herein does not indicate that permission to assign or subcontract has been granted.
- M. **Venue and Waiver of Jury Trial.** Any action or proceeding seeking to enforce any provision, or based on any right arising out of this Addendum shall be brought in the federal or state courts located in Orange County, Florida, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue therein. Any and all rights to a trial by jury are hereby waived.
- N. **Waiver and Breach.** No failure by a Party to insist upon the strict performance of any covenant, agreement, term, or condition of this Addendum shall constitute a waiver of any such breach or such covenant, agreement, term, or condition. Any Party may waive compliance by the other Party with any of the provisions of this Addendum if done so in writing. No waiver of any provision shall be construed as a waiver of any other provision or any subsequent waiver of the same provision.
- O. **Entire Agreement.** The Agreement, this Addendum and/or any additional addenda or amendments to the Agreement, any documents incorporated herein by reference, and/or attachments hereto, shall construe the entire understanding between the Parties as to the rights, obligations, duties, and services to be performed hereunder.

IN WITNESS HEREOF, the parties have executed this Addendum as of the date first above written.

**ORANGE COUNTY, FLORIDA**

By: Orange County Board of County Commissioners

BY: \_\_\_\_\_  
Carrie Mathes, MPA, CFCM, CPPO, C.P.M., APP  
Manager, Procurement Division

DATE: \_\_\_\_\_

**THE BUSINESS ASSOCIATE**

Business Associate: \_\_\_\_\_

By: \_\_\_\_\_

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

Official Title: \_\_\_\_\_

Date: \_\_\_\_\_

STATE OF FLORIDA                    )  
  ) ss:  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me by means of  physical presence, or  on line notarization, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by \_\_\_\_\_ [NAME OF PERSON], as \_\_\_\_\_ [TYPE OF AUTHORITY,... e.g. officer, trustee, etc.]) for \_\_\_\_\_ [NAME OF PARTY ON BEHALF OF WHOM INSTRUMENT WAS EXECUTED].

Personally Known; OR  
 Produced Identification. Type of identification produced: \_\_\_\_\_.  
[CHECK APPLICABLE BOX TO SATISFY IDENTIFICATION REQUIREMENT OF FLA. STAT. §117.05]

\_\_\_\_\_  
Notary Public  
My Commission Expires:

\_\_\_\_\_  
(Printed, typed or stamped commissioned name of Notary Public)