

**AGREEMENT BETWEEN BROWARD COUNTY AND INSTITUTE FOR SUSTAINABLE
COMMUNITIES FOR COORDINATION AND FACILITATION SERVICES FOR THE SOUTHEAST
FLORIDA REGIONAL CLIMATE CHANGE COMPACT**

This Agreement ("Agreement") is made and entered into by and between Broward County, a political subdivision of the State of Florida ("County"), and Institute for Sustainable Communities, a Vermont not-for-profit corporation ("ISC") (collectively referred to as the "Parties").

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1. DEFINITIONS

- 1.1 **Board.** The Board of County Commissioners of Broward County, Florida.
- 1.2 **Contract Administrator.** The Director of the Environmental Planning and Community Resilience Division.
- 1.3 **County Administrator.** The administrative head of County appointed by the Board.
- 1.4 **County Attorney.** The chief legal counsel for County appointed by the Board.
- 1.5 **Services.** All work required by ISC under this Agreement, including without limitation all deliverables, consulting, training, project management, and other services specified in Exhibit A.

ARTICLE 2. SCOPE OF SERVICES

- 2.1 ISC shall perform all work identified in this Agreement including without limitation the work set forth in Exhibit A. The Scope of Services stated in this Agreement is a description of ISC's obligations and responsibilities and is deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks which are such an inseparable part of the work described that exclusion would render performance by ISC impractical, illogical, or unconscionable.
- 2.2 ISC acknowledges that the Contract Administrator has no authority to make changes that would increase, decrease, or otherwise modify the Scope of Services to be provided under this Agreement except as expressly set forth in this Agreement or, to the extent applicable, set forth in the Broward County Procurement Code (Chapter 21 of the Broward County Administrative Code).

ARTICLE 3. TERM AND TIME OF PERFORMANCE

- 3.1 The term of this Agreement shall begin on January 1, 2018, and shall end at 11:59 PM on February 28, 2021 ("Term"). The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes, as well as the execution of and receipt of funds set forth in a funding agreement between County and County's partners in the Southeast Florida Regional Climate Change Compact.
- 3.2 Unless otherwise agreed by the Parties in writing, all duties, obligations, and responsibilities of ISC required by this Agreement shall be completed no later than December 31, 2020. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

ARTICLE 4. COMPENSATION

- 4.1 For the Term, County will pay ISC a maximum amount of Six Hundred Thousand and 00/100 Dollars (\$600,000.00), including reimbursables, for services provided pursuant to this Agreement.

4.1.1 Payment shall be made pursuant to this Agreement, as set forth in Exhibit B (Payment Schedule), which amount shall be accepted by ISC as full compensation for all such work. ISC acknowledges that the amounts set forth herein are the maximum amounts payable and constitute a limitation upon County's obligation to compensate ISC for its work under this Agreement. These maximum amounts, however, do not constitute a limitation of any sort upon ISC's obligation to perform all items of work required under this Agreement. Unless otherwise agreed to in writing by County, continuation of this Agreement and County's quarterly payment obligation are contingent on each of County's partnering counties contributing, and County's receipt of, twenty-five percent (25%) of the lump sum pursuant to the Interlocal Agreement Between Broward County, Miami-Dade County, Monroe County, and Palm Beach County for Cost Share Support of Services for the Southeast Regional Climate Change Compact; which money shall be collected by County and paid pursuant to this Agreement.

4.2 METHOD OF BILLING AND PAYMENT

4.2.1 ISC may submit invoices for compensation no more often than on a quarterly basis, but only after the Services for which the invoices are submitted have been completed. An original invoice plus one copy are due within thirty (30) days after the end of the quarter except (a) the Calendar Quarter 1 invoice, which must be submitted with the Calendar Quarter 2 invoice, and (b) the final invoice which must be received no later than sixty (60) days after this Agreement expires or is

otherwise terminated. Invoices shall designate the nature of the Services performed and, as applicable, the personnel, hours, tasks, and other detail as requested by the Contract Administrator. Payment pursuant to the Payment Schedule set forth in Exhibit "B" is conditioned upon ISC providing County with a quarterly narrative report detailing the activities performed.

- 4.2.2 Any invoice by ISC shall be in the maximum amount set forth in Exhibit B for the applicable Services.
- 4.2.3 County shall pay ISC within thirty (30) calendar days after receipt of ISC's proper invoice, as required by the "Broward County Prompt Payment Ordinance," Section 1-51.6, Broward County Code of Ordinances. To be deemed proper, all invoices must comply with the requirements set forth in this Agreement and must be submitted on the form and pursuant to instructions prescribed by the Contract Administrator. Payment may be withheld for failure of ISC to comply with a term, condition, or requirement of this Agreement.
- 4.3 Reimbursables. For reimbursement of any travel costs or travel-related expenses permitted under this Agreement, ISC agrees to adhere to Section 112.061, Florida Statutes, except to the extent, if any, that Exhibit A expressly provides to the contrary. County shall not be liable for any such expenses that have not been approved in advance, in writing, by the Contract Administrator.
- 4.4 Notwithstanding any provision of this Agreement to the contrary, County may withhold, in whole or in part, payment to the extent necessary to protect itself from loss on account of inadequate or defective work that has not been remedied or resolved in a manner satisfactory to the Contract Administrator or failure to comply with this Agreement. The amount withheld shall not be subject to payment of interest by County.
- 4.5 Payment shall be made to ISC by check at the address designated for Notices under Section 9.8.

ARTICLE 5. INDEMNIFICATION

ISC shall at all times hereafter indemnify, hold harmless, and defend County and all of County's current and former officers, agents, servants, and employees (collectively, "Indemnified Party") from and against any and all causes of action, demands, claims, losses, liabilities and expenditures of any kind, including attorneys' fees, court costs, and expenses (collectively, a "Claim"), raised or asserted by any person or entity not a Party to this Agreement, which Claim is caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of ISC, its current or former officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement. In the event any Claim is brought against an Indemnified Party, ISC shall, upon written notice from County, defend each Indemnified Party against each such Claim

by counsel satisfactory to County or, at County's option, pay for an attorney selected by County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. To the extent considered necessary by the Contract Administrator and the County Attorney, any sums due ISC under this Agreement may be retained by County until all of County's claims for indemnification pursuant to this Agreement have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

ARTICLE 6. INSURANCE

- 6.1 For purposes of this article, the term "County" shall include Broward County and its officials, officers, and employees.
- 6.2 ISC shall maintain, at its sole expense and at all times during the term of this Agreement (unless a different time period is otherwise stated herein), at least the minimum limits of insurance coverage designated in Exhibit C (inclusive of any amount provided by an umbrella or excess policy) in accordance with the terms and conditions stated in this article. All required insurance shall apply on a primary basis, and shall not require contribution from, any other insurance or self-insurance maintained by County. Any insurance, or self-insurance, maintained by County shall be in excess of, and shall not contribute with, the insurance provided by ISC.
- 6.3 Insurers providing the insurance required by this Agreement must either be: (1) authorized by a current certificate of authority issued by the State of Florida to transact insurance in the State of Florida, or (2) except with respect to coverage for the liability imposed by the Florida Workers' Compensation Act, an eligible surplus lines insurer under Florida law. In addition, each such insurer shall have and maintain throughout the period for which coverage is required, a minimum A. M. Best Company Rating of "A-" and a minimum Financial Size Category of "VII." To the extent insurance requirements are designated in Exhibit C, the applicable policies shall comply with the following:
- 6.3.1 Commercial General Liability Insurance. Policy shall be no more restrictive than that provided by the latest edition of the standard Commercial General Liability Form (Form CG 00 01) as filed for use in the State of Florida by the Insurance Services Office (ISO), with the exception of endorsements specifically required by ISO or the State of Florida, and liability arising out of:

Mold, fungus, or bacteria
Terrorism
Silica, asbestos or lead
Sexual molestation

County shall be included on the policy (and any excess or umbrella policy) as an, "Additional Insured" on a form no more restrictive than ISO form CG 20 10

(Additional Insured – Owners, Lessees, or Contractor). The policy (and any excess or umbrella policy) must be endorsed to waive the insurer’s right to subrogate against County.

- 6.3.2 Business Automobile Liability Insurance. Policy shall be no more restrictive than that provided by Section II (Liability Coverage) of the most recent version of the standard Business Auto Policy (ISO Form CA 00 01) without any restrictive endorsements, including coverage for liability contractually assumed, and shall cover all owned, non-owned, and hired autos used in connection with the performance of work under this Agreement. County shall be included on the policy (and any excess or umbrella policy) as an, “Additional Insured.” The policy (and any excess or umbrella policy) must be endorsed to waive the insurer’s right to subrogate against County.
- 6.3.3 Workers’ Compensation/Employer’s Liability Insurance. Such insurance shall be no more restrictive than that provided by the latest edition of the standard Workers’ Compensation Policy, as filed for use in Florida by the National Council on Compensation Insurance (NCCI), with the exception of endorsements required by NCCI or the State of Florida. The policy must be endorsed to waive the insurer’s right to subrogate against County in the manner which would result from the attachment of the NCCI form “Waiver of our Right to Recover from Others Endorsement” (Advisory Form WC 00 03 13) with County scheduled thereon. Where appropriate, coverage shall be included for any applicable Federal or State employer’s liability laws including, but not limited to, the Federal Employer’s Liability Act, the Jones Act, and the Longshoreman and Harbor Workers Compensation Act.
- 6.4 Within fifteen (15) days after the Effective Date of the Agreement or notification of award, whichever is earlier, ISC shall provide to County satisfactory evidence of the insurance required in the Agreement. With respect to the Workers’ Compensation/Employer’s Liability Insurance, Professional Liability and Business Automobile Liability Insurance, an appropriate Certificate of Insurance (which identifies the project) and is signed by an authorized representative of the insurer shall be satisfactory evidence of insurance. With respect to the Commercial General Liability, an appropriate Certificate of Insurance (which identifies the project) signed by an authorized representative of the insurer, and copies of the actual additional insured endorsements as issued on the policy(ies), shall be satisfactory evidence of such insurance.
- 6.5 Coverage is not to cease and is to remain in force until County determines all performance required of ISC is completed. If any of the insurance coverage will expire prior to the completion of the Services, proof of insurance renewal shall be provided to County prior to the policy’s expiration.

- 6.6 ISC shall provide County thirty (30) days' advance notice of any cancellation of the policy except in cases of cancellation for non-payment for which the County shall be given ten (10) days' advance notice.
- 6.7 ISC shall provide, within thirty (30) days after receipt of a written request from County, a copy or copies of the policy or policies providing the coverage required by this Agreement. ISC may redact those provisions of the policy or policies which are not relevant to the insurance required by this Agreement.
- 6.8 County and ISC, each for itself and on behalf of its insurers, to the fullest extent permitted by law without voiding the insurance required hereunder, waive all rights against each other and any of their other contractors, subcontractors, agents and employees, each of the other, for damages or loss to the extent covered and paid for by any insurance maintained by the other Party.
- 6.9 If ISC uses a subcontractor, ISC shall require each subcontractor to endorse "Broward County" as an "Additional Insured" on the Subcontractor's Commercial General Liability.

ARTICLE 7. TERMINATION

- 7.1 This Agreement may be terminated for cause upon three (3) days written notice of termination given by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) calendar days after receipt of written notice from the aggrieved Party identifying the breach. This Agreement may also be terminated for convenience by the Board. Termination for convenience by the Board shall be effective on the termination date stated in written notice provided by County, which termination date shall be not less than thirty (30) calendar days after the date of such written notice. This Agreement may also be terminated by the County Administrator upon such notice as the County Administrator deems appropriate under the circumstances in the event the County Administrator determines that termination is necessary to protect the public health, safety, or welfare. If County erroneously, improperly, or unjustifiably terminates for cause, such termination shall, at County's sole election, be deemed a termination for convenience, which shall be effective thirty (30) calendar days after such notice of termination for cause is provided.

This Agreement may be terminated for cause for reasons including, but not limited to, ISC's repeated (whether negligent or intentional) submission for payment of false or incorrect bills or invoices, failure to suitably perform the work, or failure to continuously perform the work in a manner calculated to meet or accomplish the objectives as set forth in this Agreement. The Agreement may also be terminated for cause if ISC is placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List created pursuant to Section 215.473,

Florida Statutes, or if ISC provides a false certification submitted pursuant to Section 287.135, Florida Statutes.

- 7.2 Notice of termination shall be provided in accordance with the "NOTICES" section of this Agreement except that notice of termination by the County Administrator, which the County Administrator deems necessary to protect the public health, safety, or welfare may be verbal notice that shall be promptly confirmed in writing in accordance with the "NOTICES" section of this Agreement.
- 7.3 In the event this Agreement is terminated for convenience by County, ISC shall be paid for any services properly performed under the Agreement through the termination date specified in the written notice of termination, which shall constitute a prorated portion of the quarterly payment to ISC shown in Exhibit "B." ISC acknowledges that it has received good, valuable, and sufficient consideration from County, the receipt and adequacy of which are hereby acknowledged by ISC, for County's right to terminate this Agreement for convenience. ISC shall not incur any additional costs performing Services after this Agreement is terminated.
- 7.4 In the event this Agreement is terminated for any reason, any amounts due ISC shall be withheld by County until all documents are provided to County pursuant to Section 9.1 of Article 9.

ARTICLE 8. EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

- 8.1 No Party to this Agreement may discriminate on the basis of race, color, sex, religion, national origin, disability, age, marital status, political affiliation, sexual orientation, pregnancy, or gender identity and expression in the performance of this Agreement. ISC shall comply with all applicable requirements of the County's County Business Enterprise ("CBE") Program as established by Broward County Business Opportunity Act of 2012, Section 1-81, Broward County Code of Ordinances (the "Act"), in the award and administration of this Agreement.

Failure by ISC to carry out any of the requirements of this section shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or to exercise any other remedy provided under this Agreement, Broward County Code of Ordinances, Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

- 8.2 Although no CBE goal has been set for this Agreement, County encourages ISC to give full consideration to the use of CBE firms to perform work under this Agreement.
- 8.3 By execution of this Agreement, ISC represents that it has not been placed on the discriminatory vendor list as provided in Section 287.134, Florida Statutes. County hereby materially relies on such representation in entering into this Agreement. An untrue

representation of the foregoing shall entitle County to terminate this Agreement upon ten (10) days written notice of termination and recover from ISC all monies paid by County pursuant to this Agreement, and may result in debarment from County's competitive procurement activities.

ARTICLE 9. MISCELLANEOUS

- 9.1 Rights in Documents and Work. Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement by ISC are and shall remain the property of ISC, and, if a copyright is claimed, ISC grants to County a non-exclusive license to use the copyrighted item(s) indefinitely, to prepare derivative works, and to make and distribute copies to the public. In the event of termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by ISC, whether finished or unfinished, shall remain the property of ISC, however, copies shall be delivered by ISC to the Contract Administrator within seven (7) calendar days of termination of this Agreement. Any compensation due to ISC shall be withheld until all documents are received as provided herein. ISC shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s). Any and all reports, photographs, surveys, and other data and documents provided or created in connection with this Agreement by County are and shall remain the property of County.
- 9.2 Public Records. County is a public agency subject to Chapter 119, Florida Statutes. To the extent ISC is a contractor acting on behalf of County pursuant to Section 119.0701, Florida Statutes, ISC shall:
- 9.2.1 Keep and maintain public records required by County to perform the service.
 - 9.2.2 Upon request from County's custodian of public records, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - 9.2.3 Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to County.
 - 9.2.4 Upon completion of the contract, transfer, at no cost, to County all public records in possession of the contractor or keep and maintain public records required by County to perform the service. If ISC transfers all public records to the public agency 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 ISC keeps and maintains public records upon completion of the contract, ISC shall meet all applicable requirements for retaining

public records. All records stored electronically must be provided to County, upon request from County's custodian of public records, in a format that is compatible with the information technology systems of County.

The failure of ISC to comply with the provisions set forth in this section shall constitute a default and breach of this Agreement and County shall enforce the default in accordance with the provisions set forth in Section 7.1. ISC shall ensure that the requirements of this section are included in all agreements with its subcontractor(s).

IF ISC HAS QUESTIONS REGARDING THE APPLICATION OF FLORIDA STATUTES CHAPTER 119 TO ISC'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 519-1270, nellison@broward.org, 115 S. ANDREWS AVE., SUITE 329H, FORT LAUDERDALE, FLORIDA 33301.

9.3 Audit Rights, and Retention of Records. County shall have the right to audit the books, records, and accounts of ISC and its subcontractors that are related to this Agreement. ISC and its subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Agreement and performance thereunder. All books, records, and accounts of ISC and its subcontractors shall be kept in written form, or in a form capable of conversion into written form within a reasonable time, and upon request to do so, ISC or its subcontractor, as applicable, shall make same available at no cost to County in written form.

ISC and its subcontractors shall preserve and make available, at reasonable times within Broward County for examination and audit by County, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for a minimum period of three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. County audits and inspections pursuant to this section may be performed by any County representative (including any outside representative engaged by County). County reserves the right to conduct such audit or review at ISC's place of business, if deemed appropriate by County, with seventy-two (72) hours' advance notice.

Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for County's disallowance and recovery of any payment upon such entry. If an audit or inspection in accordance with this section discloses overpricing or overcharges to County of any nature by ISC in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of the County's audit shall be reimbursed to the County by ISC in addition to making adjustments for the overcharges. Any adjustments or payments due as a result of such audit or inspection shall be made within thirty (30) days from presentation of County's findings to ISC.

ISC shall ensure that the requirements of this section are included in all agreements with its subcontractor(s).

- 9.4 Truth-In-Negotiation Representation. ISC's compensation under this Agreement is based upon representations supplied to County by ISC, and ISC certifies that the information supplied, including without limitation in the negotiation of this Agreement, is accurate, complete, and current at the time of contracting. County shall be entitled to recover any damages it incurs to the extent such representation is untrue.
- 9.5 Public Entity Crime Act. ISC represents that it is familiar with the requirements and prohibitions under the Public Entity Crime Act, Section 287.133, Florida Statutes, and represents that its entry into this Agreement will not violate that Act. In addition to the foregoing, ISC further represents that there has been no determination that it committed a "public entity crime" as defined by Section 287.133, Florida Statutes, and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether ISC has been placed on the convicted vendor list. Notwithstanding any provision in this Agreement to the contrary, if any representation stated in this paragraph is false, County shall have the right to immediately terminate this Agreement and recover all sums paid to ISC under this Agreement.
- 9.6 Independent Contractor. ISC is an independent contractor under this Agreement. In providing Services under this Agreement, neither ISC nor its agents shall act as officers, employees, or agents of County or any entities contributing to the funding of this Agreement. ISC shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.
- 9.7 Third Party Beneficiaries. Except for the other members of the Southeast Florida Regional Climate Change Compact, neither ISC nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no other third party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against any of the Parties based upon this Agreement.
- 9.8 Notices. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Environmental Planning and Community Resilience Division
Attn: Jennifer Jurado, PhD, Director
Governmental Center, Room 329H
115 South Andrews Avenue

Fort Lauderdale, Florida 33301
Email address: jjurado@broward.org

FOR ISC:

Institute for Sustainable Communities
Attn: Nicholas R. Stevens, Vice President of Finance & Operations
535 Stone Cutter's Way
Montpelier, VT 05602
Email address: nstevens@iscvt.org

- 9.9 Assignment and Performance. Neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by ISC without the prior written consent of County. If ISC violates this provision, County shall have the right to immediately terminate this Agreement. ISC represents that each person and entity that will provide services under this Agreement is duly qualified to perform such services by all appropriate governmental authorities, where required, and is sufficiently experienced and skilled in the area(s) for which such person or entity will render services. ISC agrees that all services under this Agreement shall be performed in a skillful and respectful manner, and that the quality of all such services shall equal or exceed prevailing industry standards for the provision of such services.
- 9.10 Conflicts. ISC and its employees shall not have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with ISC's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. None of ISC's officers or employees shall, during the term of this Agreement, serve as an expert witness against County in any legal or administrative proceeding in which he, she, or ISC is not a party, unless compelled by court process. Further, such persons shall not give sworn testimony or issue a report or writing, as an expression of his or her expert opinion, which is adverse or prejudicial to the interests of County in connection with any such pending or threatened legal or administrative proceeding unless compelled by court process. The limitations of this section shall not preclude ISC or any persons in any way from representing themselves, including giving expert testimony in support thereof, in any action or in any administrative or legal proceeding. In the event ISC is permitted pursuant to this Agreement to utilize subcontractors to perform any services required by this Agreement, ISC shall require such subcontractors, by written contract, to comply with the provisions of this section to the same extent as ISC.
- 9.11 Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth herein was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement, and each is, therefore, a material term hereof. County's failure to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement

shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

- 9.12 Compliance with Laws. ISC shall comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations pursuant to this Agreement.
- 9.13 Severability. In the event any part of this Agreement is found to be unenforceable by any court of competent jurisdiction, that part shall be deemed severed from this Agreement and the balance of this Agreement shall remain in full force and effect.
- 9.14 Joint Preparation. This Agreement has been jointly prepared by the Parties hereto, and shall not be construed more strictly against either Party.
- 9.15 Interpretation. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence, paragraph, or section where they appear, unless the context otherwise requires. Whenever reference is made to a section or article of this Agreement, such reference is to the section or article as a whole, including all of the subsections of such section, unless the reference is made to a particular subsection or subparagraph of such section or article.
- 9.16 Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached hereto or referenced or incorporated herein and any provision of Articles 1 through 9 of this Agreement, the provisions contained in Articles 1 through 9 shall prevail and be given effect.
- 9.17 Law, Jurisdiction, Venue, Waiver of Jury Trial. This Agreement shall be interpreted and construed in accordance with and governed by the laws of the state of Florida. The Parties agree that the exclusive venue for any lawsuit arising from, related to, or in connection with this Agreement shall be in the state courts of the Seventeenth Judicial Circuit in and for Broward County, Florida. If any claim arising from, related to, or in connection with this Agreement must be litigated in federal court, the Parties agree that the exclusive venue for any such lawsuit shall be in the United States District Court or United States Bankruptcy Court for the Southern District of Florida. **BY ENTERING INTO THIS AGREEMENT, ISC AND COUNTY HEREBY EXPRESSLY WAIVE ANY RIGHTS EITHER PARTY MAY HAVE TO A TRIAL BY JURY OF ANY CIVIL LITIGATION RELATED TO THIS AGREEMENT. IF A PARTY FAILS TO WITHDRAW A REQUEST FOR A JURY TRIAL IN A LAWSUIT ARISING OUT OF THIS AGREEMENT AFTER WRITTEN NOTICE BY THE OTHER PARTY OF VIOLATION OF THIS SECTION, THE PARTY MAKING THE REQUEST FOR JURY TRIAL SHALL BE LIABLE FOR THE REASONABLE ATTORNEYS' FEES AND COSTS OF THE**

OTHER PARTY IN CONTESTING THE REQUEST FOR JURY TRIAL, AND SUCH AMOUNTS SHALL BE AWARDED BY THE COURT IN ADJUDICATING THE MOTION.

- 9.18 Amendments. No modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by the Board and ISC or others delegated authority or otherwise authorized to execute same on their behalf.
- 9.19 Prior Agreements. This Agreement represents the final and complete understanding of the parties regarding the subject matter hereof and supersedes all prior and contemporaneous negotiations and discussions regarding that subject matter. There is no commitment, agreement, or understanding concerning the subject matter of this Agreement that is not contained in this written document.
- 9.20 Payable Interest
- 9.20.1 Payment of Interest. County shall not be liable to pay any interest to ISC for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof, ISC waives, rejects, disclaims and surrenders any and all entitlement it has or may have to receive interest in connection with a dispute or claim arising from, related to, or in connection with this Agreement. This paragraph shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.
- 9.20.2 Rate of Interest. If, for whatever reason, the preceding subsection is determined to be invalid or unenforceable by a court of competent jurisdiction, the annual rate of interest payable by County under this Agreement, whether as prejudgment interest or for any other purpose, shall be, to the full extent permissible under applicable law, 0.25% (one quarter of one percent) simple interest (uncompounded).
- 9.21 Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated herein by reference. The attached exhibits are incorporated into and made a part of this Agreement.
- 9.22 Representation of Authority. Each individual executing this Agreement on behalf of a party hereto hereby represents and warrants that he or she is, on the date he or she signs this Agreement, duly authorized by all necessary and appropriate action to execute this Agreement on behalf of such party and does so with full legal authority.
- 9.23 Counterparts and Multiple Originals. This Agreement may be executed in multiple originals, and may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

- 9.24 Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of Section 16½-157 of the Broward County Code of Ordinances, which requires County contractors to provide benefits to domestic partners of their employees, ISC agrees to fully comply with Section 16½-157 during the entire term of the Agreement. If ISC fails to fully comply with that section, such failure shall constitute a material breach which shall allow County to exercise any remedy available under this Agreement, under applicable law, or under section 16½-157. For that purpose, the contract language referenced in Section 16½-157 is incorporated herein as though fully set forth in this paragraph.
- 9.25 Drug-Free Workplace. It is a requirement of County that it enter into contracts only with firms that certify the establishment of a drug-free workplace in accordance with Chapter 21.31(a)(2) of the Broward County Procurement Code. Execution of this Agreement by ISC shall serve as ISC's required certification that it has a drug-free workplace program in accordance with Section 287.087, Florida Statutes, and Chapter 21.31(a)(2) of the Broward County Procurement Code, and that it will maintain such drug-free workplace program for the full term of this Agreement.
- 9.26 Contingency Fee. ISC represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for ISC, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If County learns that this representation is false, County shall have the right to terminate this Agreement without any further liability to ISC. Alternatively, if such representation is false, County, at its sole discretion, may deduct from the compensation due ISC under this Agreement the full amount of such fee, commission, percentage, gift, or consideration.
- 9.27 Use of County Logo. ISC shall not use County's name, logo, or otherwise refer to this Agreement in any marketing or publicity materials without the prior written consent of County.

(Remainder of page intentionally blank.)

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement: BROWARD County through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice-Mayor, authorized to execute same by Board action on the ____ day of _____, 20__, and ISC, signing by and through its _____, duly authorized to execute same.

COUNTY

ATTEST:

BROWARD COUNTY, by and through
its Board of County Commissioners

Broward County Administrator, as
Ex-officio Clerk of the Broward County
Board of County Commissioners

By: _____
____ day of _____, 20__.

Insurance requirements approved by
Broward County
Risk Management Division:

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

By: _____

Name: _____

Title: _____

By: _____
Benjamin D. Crego (Date)
Assistant County Attorney

By: _____
Maite Azcoitia (Date)
Deputy County Attorney

**AGREEMENT BETWEEN BROWARD COUNTY AND INSTITUTE FOR SUSTAINABLE
COMMUNITIES FOR COORDINATION AND FACILITATION SERVICES FOR THE SOUTHEAST
FLORIDA REGIONAL CLIMATE CHANGE COMPACT**

ISC

INSTITUTE FOR SUSTAINABLE
COMMUNITIES

WITNESSES:

Signature

Print Name

Signature

Print Name

By _____
George Hamilton, President

_____ day of _____, 20__.

(SEAL)

Exhibit A – Scope of Services



Support for the Southeast Florida Regional Climate Change Compact Statement of Work for 2018 - 2020 |

The Institute for Sustainable Communities ("ISC") shall provide a level of effort and time per year that will not be less than the equivalent of two (2) full-time employees during the contracted period. This level of effort will combine the time and expertise of ISC staff to provide services to the Compact including governance process facilitation and support, strategic and technical assistance, communications delivery and support, and assistance in identifying additional financial resources from federal, state, and private philanthropic sources to support the growth and expansion of Compact service delivery. The details of the services ISC shall perform are articulated in the tasks and deliverables set forth below.

Task 1: Provide Secretariat Services for the Compact

Task 1.1: Bi-weekly Staff Steering Committee Call Support

Representative tasks include: Identifying key strategic and management issues for the ongoing success of the Compact, developing the bi-weekly agenda in partnership with the Staff Steering Committee ("SSC"), compiling hot topics for discussion with the Compact, facilitating communications between Compact partners, and assembling requests for Compact support and engagement.

Task 1.2: Biannual (2x annually) Staff Steering Committee Retreats

Representative tasks include: Identifying key strategic and management issues for the ongoing success of the Compact; providing strategic advice to the SSC; developing the retreat agenda in partnership with the SSC.

Task 1.3: General Compact Support – Priority Tasks:

Representative tasks include: Providing support on short and longer-term tasks as prioritized and assigned by the SSC on an annual basis with the ability to make adjustments on a quarterly basis as issues, challenges, and opportunities arise in furthering the interests of the Compact partners.

Task 1.4: Annual Regional Climate Leadership Summit ("Summit") Support

Representative tasks include: Participating on Summit planning team calls; assisting with the development of Summit themes, panels, and deliverables; assisting with the identification and engagement of speakers for the Summit; traveling to and participating in the Summit.

Task 1.5: General Fundraising Support

Representative tasks include: Identifying new grant resources for the Compact (federal, state, or private philanthropy) and coordinating the development of proposals and budgets in partnership with the SSC.

Task 2: Provide implementation support for the Regional Climate Action Plan ("RCAP") 2.0

Task 2.1: RCAP Implementation Workshops (two per year)

Representative tasks include: Designing the workshop and agenda; managing logistics; and producing the guidance materials from the RCAP for the Compact website.

Task 3: Compact Communications Support

Task 3.1: Compact Website and Compact Currents

Representative tasks include: Providing ongoing support and maintenance to the Compact website; developing new content and pages on the Compact site; developing and delivering the Compact's quarterly e-newsletter.

Deliverables

ISC shall provide a quarterly narrative report detailing activities across these three key tasks, including an ISC accounting of staff time and expenses, for review and approval by the SSC.

Personnel and Fringe Benefits—salaries are budgeted as gross wages and reflect current or comparable rates from ISC's current projects. ISC fringe benefits are based on each employee's salary, timesheet allocations, and its Negotiated Indirect Cost Rate Agreement ("NICRA") (included as Attachment A), which is approved by United States Agency for International Development, ISC's cognizant audit agency.

Travel—ISC requires travelers to take reasonable steps to lower travel costs, and air travel is based on economy or coach class fares. ISC pays for actual hotel costs and provides per diem rates for meals and incidental expenses that do not exceed US Government rates.

Other Direct Costs—ISC's estimates include communication and photocopying expenses and a portion of ISC's A-133 audit expense. These expenses have been budgeted for this program based on ISC's overall program cost and budget.

Indirect Costs—ISC's indirect cost calculation methodology uses a modified total direct cost base consisting of total direct costs, less grant agreement amounts that exceed \$25,000. ISC's NICRA is currently 28 percent of its modified total direct cost base.

Attachment A – ISC Negotiated Indirect Cost Rate Agreement



NEGOTIATED INDIRECT COST RATE AGREEMENT

September 29, 2017

ORGANIZATION

Institute for Sustainable Communities
535 Stone Cutters Way
Montpelier, Vermont 05602

The rates approved in this Agreement are for use on grants, contracts and other agreements with the Federal Government to which OMB Circular A-122 applies, subject to the conditions in section II.A, below. The rate(s) were negotiated by the U.S. Agency for International Development in accordance with the authority contained in Attachment A, Section E.2.(a), of the Circular. Effective December 26, 2014, the authority contained in Appendix IV, Section C.2.a., of 2 Code of Federal Regulations (CFR) 200 applies.

SECTION I: NEGOTIATED INDIRECT COST RATES

TYPE	EFFECTIVE PERIOD		INDIRECT COST RATES	
	FROM	THROUGH	FRINGE BENEFITS (a)	OVERHEAD (b)
Final	10-01-14	09-30-15	30.93%	29.14%
Final	10-01-15	09-30-16	30.97%	29.66%
Provisional	10-01-16	Until Amended	35.00%	28.00%

Base of Application

- (a) Total labor dollars excluding national in-country staff salaries, expatriate allowances, relocation allowances and temporary staff
- (b) Total costs excluding overhead expenses, donated services and subawards in excess of \$25,000 per each subaward

U.S. Agency for International Development
1300 Pennsylvania Avenue, NW
Washington, DC 20523
www.usaid.gov


SECTION II: GENERAL

- A. LIMITATIONS: Use of the rate(s) contained in this Agreement is subject to all statutory or administrative limitations and is applicable to a given grant, contract or other agreement only to the extent that funds are available. Acceptance of the rate(s) agreed to herein is predicated upon the following conditions:
1. That no costs other than those incurred by the grantee/contractor or allocated to the grantee/contractor via an approved central service cost allocation plan were included in its indirect cost rate proposal and that such incurred costs are legal obligations of the grantee/contractor and allowable under the governing cost principles,
 2. That the information provided by the grantee/contractor which was used as a basis for acceptance of the rate(s) to herein is not subsequently found to be materially inaccurate,
 3. That the same costs that have been treated as indirect costs have not been claimed as direct costs, and
 4. That similar types of costs have been accorded consistent treatment.
- B. ACCOUNTING CHANGES: The grantee/contractor is required to provide written notification to the indirect cost negotiator prior to implementing any changes which could affect the applicability of the approved rates. Any changes in accounting practice to include changes in the method of charging a particular type of cost as direct or indirect and changes in the indirect cost allocation base or allocation methodology require the prior approval of the Office of Overhead, Special Cost and Closeout (OCC). Failure to obtain such prior written approval may result in cost disallowance.
- C. NOTIFICATION TO FEDERAL AGENCIES: A copy of this document is to be provided by this organization to other Federal funding sources as a means of notifying them of the Agreement contained herein.
- D. PROVISIONAL-FINAL RATES: The grantee/contractor must submit a proposal to establish a final indirect cost rate within nine months after its fiscal year end. Billings and charges to Federal awards must be adjusted if the final rate varies from the provisional rate. If the final rate is greater than the provisional rate and there are no funds available to cover the additional indirect costs, the organization may not recover all indirect costs. Conversely, if the final rate is less than the provisional rate, the organization will be required to pay back the difference to the funding agency.

E. SPECIAL REMARKS:

1. Indirect costs charged to Federal grants/contracts by means other than the rate(s) cited in the agreement should be adjusted to the applicable rate(s) cited herein which should be applied to the appropriate base to identify the proper amount of indirect costs allocable to the program.
2. Grants/contracts providing for ceilings as to the indirect cost rate(s) or amount(s), which are indicated in Section I above, will be subject to the ceilings stipulated in the grant, contract or other agreement. The ceiling rate(s) or the rate(s) cited in this Agreement, whichever is lower, will be used to determine the maximum allowable indirect cost on the grant or contract agreement.
3. The rates hereby approved are subject to periodic review by the Government at any time their use is deemed improper or unreasonable. You are requested to advise the Government promptly of any circumstances, which could affect the applicability of the approved rates.
4. You are directed to submit adjustment or final financial expenditure reports (SF-425) for all flexibly priced grants and other agreements; or adjustment or final vouchers for all flexibly priced contracts within 120 days after settlement of the final annual indirect cost rates. Audit adjustments should be clearly delineated so as to be readily identifiable for verification by this office. Care should be taken that amounts claimed do not exceed award limitations or indirect cost rate ceilings. USAID will deobligate any remaining funds if the required financial expenditure reports or vouchers are not submitted within 120 days. Once the money is de-obligated, it will not be reinstated.

ACCEPTED: Institute for Sustainable Communities

By: 
Signature
NICHOLAS STEVENS
Printed or Typed Name
VP, FINANCE & OPERATIONS
Title
10/04/17
Date



Eugenia L. Brown
Agreement Officer
Overhead, Special Cost and Closeout Branch
Cost, Audit and Support Division
Office of Acquisition and Assistance
U.S. Agency for International Development

Exhibit B – Payment Schedule

The rates specified below shall be in effect for the entire term of the Agreement, including any renewal or extension term(s), unless otherwise expressly stated below. Any goods or services required under this Agreement for which no specific fee or cost is expressly stated in this Payment Schedule shall be deemed to be included, at no extra cost, within the costs and fees expressly provided for in this Exhibit B.

2018: Calendar Quarter 1	\$50,000
2018: Calendar Quarter 2	\$50,000
2018: Calendar Quarter 3	\$50,000
2018: Calendar Quarter 4	\$50,000
2018 Total	\$200,000

2019: Calendar Quarter 1	\$50,000
2019: Calendar Quarter 2	\$50,000
2019: Calendar Quarter 3	\$50,000
2019: Calendar Quarter 4	\$50,000
2019 Total	\$200,000

2020: Calendar Quarter 1	\$50,000
2020: Calendar Quarter 2	\$50,000
2020: Calendar Quarter 3	\$50,000
2020: Calendar Quarter 4	\$50,000
2020 Total	\$200,000

EXHIBIT C
Minimum Insurance Requirements

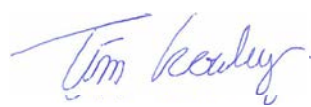
Exhibit C

Insurance Requirement

The following coverage is deemed the minimum insurance required for this project. The selected firm must be prepared to provide proof of insurance commensurate with or in excess of this requirement. Any deviation is subject to the approval of Risk Management.

TYPE OF INSURANCE	MINIMUM LIABILITY LIMITS		
		Each Occurrence	Aggregate
COMMERCIAL GENERAL LIABILITY Broad form or equivalent <i>With no exclusions or limitations for:</i> <input checked="" type="checkbox"/> Premises-Operations <input type="checkbox"/> Explosion, Collapse, Underground Hazards <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury <input type="checkbox"/> Other:	Bodily Injury		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$1,000,000	\$2,000,000
	Personal Injury		
BUSINESS AUTO LIABILITY* COMPREHENSIVE FORM <input checked="" type="checkbox"/> Owned * <i>MAY BE WAIVED</i> <input checked="" type="checkbox"/> Hired <i>IF NO AUTOS WILL</i> <input checked="" type="checkbox"/> Non-owned <i>BE USED IN</i> <input checked="" type="checkbox"/> Scheduled <i>PERFORMANCE OF</i> <input checked="" type="checkbox"/> Any Auto <i>SERVICES</i>	Bodily Injury (each person)		
	Bodily Injury (each accident)		
	Property Damage		
	Combined single limit Bodily Injury & Property Damage	\$ 500,000	
EXCESS/UMBRELLALIABILITY <i>May be used to supplement minimum liability coverage requirements.</i>	Follow form basis or Add'l insd endorsement is required	\$	
<input checked="" type="checkbox"/> WORKERS' COMPENSATION <input checked="" type="checkbox"/> EMPLOYERS' LIABILITY	Chapter 440 FS (each accident)	STATUTORY \$ 500,000	U.S. Longshoremen & Harbor Workers' Act & Jones Act is required for any activities on or about navigable water
<input type="checkbox"/> PROFESSIONAL LIABILITY ~ E&O	(each accident) Extended reporting period		
<input type="checkbox"/> CRIME AND FIDELITY			
<input type="checkbox"/> Installation floater Coverage must be "All Risk", completed value. Coverage must remain in force until written final acceptance by County.	Maximum Deductible: CONTRACTOR IS RESPONSIBLE FOR DEDUCTIBLE	\$10 k	Completed Value form
DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES Broward County is listed as an additional insured on the commercial general liability and the business automobile liability policies. Waiver of subrogation in favor of the Certificate Holder applies to General Liability, Automobile Liability, and Worker's Compensation REFERENCE: Florida Regional Climate Change Compact			

CERTIFICATE HOLDER:
Broward County
 115 South Andrews Avenue
 Fort Lauderdale, FL 33301
 Attn: Jason Liechty



Digitally signed by TIMOTHY CROWLEY
 DN: dc=cty, dc=broward, dc=bc, ou=Organization, ou=BCC, ou=RM, ou=Users, cn=TIMOTHY CROWLEY
 Date: 2017.10.26 17:09:45-04'00'