

**AGREEMENT BETWEEN BROWARD COUNTY AND ADEPT PUBLIC RELATIONS, LLC,  
FOR COMMUNICATIONS AND MARKETING SERVICES (RFP # GEN2119422P1)**

This Agreement (“Agreement”) is made and entered by and between Broward County, a political subdivision of the State of Florida (“County”), and ADEPT Public Relations, LLC, a Florida corporation (“Contractor”) (each a “Party” and collectively referred to as the “Parties”).

**RECITALS**

A. County conducted a competitive solicitation seeking proposals from qualified vendors to provide communications and marketing services pursuant to Request for Proposals No. GEN2119422P1 (“RFP”).

B. Contractor responded to the RFP and the County elected to enter into negotiations with Contractor for Contractor’s performance of the services specified by the RFP.

C. This Agreement reflects and memorializes those negotiations between 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** means the Board of County Commissioners of Broward County, Florida.
- 1.2. **Contract Administrator** means the Director of the Office of Public Communications, the Assistant Director of the Office of Public Communications, or such other person designated by the Director of the Office of Public Communications in writing.
- 1.3. **County Business Enterprise** or **CBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.
- 1.4. **Flat Fee Services** means all Services described in Exhibit A-1.
- 1.5. **Hourly Rates** means Contractor’s hourly rates for Services, as specified in Exhibit B.
- 1.6. **Non-Flat Fee Services** means all Services described in Exhibit A-2.
- 1.7. **Notice to Proceed** means a written authorization to proceed with the project, phase, or task, issued by the Contract Administrator in a fully executed Work Authorization.
- 1.8. **Purchasing Director** means County’s Director of Purchasing as appointed by the Broward County Administrator.

1.9. **Reimbursable Expenses** means those expenses for which Contractor may be reimbursed by the County, as set forth in Exhibit B.

1.10. **Services** means the Flat Fee Services and Non-Flat Fee Services, set forth respectively in Exhibits A-1 and A-2.

1.11. **Small Business Enterprise** or **SBE** means an entity certified as meeting the applicable requirements of Section 1-81, Broward County Code of Ordinances.

1.12. **Subcontractor** means an entity or individual providing services to County through Contractor for all or any portion of the work under this Agreement. The term "Subcontractor" shall include all subconsultants.

1.13. **Work Authorization** means a written order in the form attached as Exhibit D executed by County and Contractor, directing Contractor to perform work and detailing the terms of payment and the scope of work.

## ARTICLE 2. EXHIBITS

<b>Exhibit A</b>	<b>Scope of Services</b>
<b>Exhibit B</b>	<b>Payment Schedule</b>
<b>Exhibit C</b>	<b>Minimum Insurance Coverages</b>
<b>Exhibit D</b>	<b>Work Authorization Form</b>
<b>Exhibit E</b>	<b>CBE/SBE Subcontractor Schedule and Letters of Intent</b>
<b>Exhibit F</b>	<b>Certification of Payments to Subcontractors and Suppliers</b>

## ARTICLE 3. SCOPE OF SERVICES

3.1. **Services.** Contractor shall perform all Flat Fee Services as described in Exhibit A-1. Contractor shall perform any Non-Flat Fee Services as described in Exhibit A-2 to the extent requested by County pursuant to a written Work Authorization in the form of Exhibit D. The Services are a description of Contractor's obligations and responsibilities and are deemed to include preliminary considerations and prerequisites, and all labor, materials, equipment, and tasks that are such an inseparable part of the work described that exclusion of any of them would render performance by Contractor impractical, illogical, or unconscionable. Contractor understands and acknowledges that the relationship between the Parties is nonexclusive in nature and that County may obtain similar or identical services from other individuals and entities. Contractor represents that all Services will be performed by Contractor (unless otherwise approved by Contract Administrator) and, notwithstanding any permitted subcontracting, all Services shall be the sole responsibility of Contractor. Contractor represents that it has or will secure, at its own expense, all personnel required to perform the Services.

3.2. **Publicity; Press.** Contractor will not make any statements, press releases, or publicity releases concerning this Agreement or the subject matter of this Agreement, or publish or otherwise disclose or permit to be disclosed or published any of the dates or other information

obtained or furnished in connection with performing the Services, or any particulars thereof, at any time during the Term without the prior written approval of the Contract Administrator, which approval shall not be unreasonably withheld.

3.3. Subcontracting. Contractor may enter into contracts with Subcontractors to provide Services, provided that Contractor obtains prior written approval of the Contract Administrator. County shall not be required to pay Contractor or a Subcontractor for Services performed by a Subcontractor unless such subcontracting was approved pursuant to this section. Under no circumstances may Contractor utilize the services of a Subcontractor to perform any activity outside the scope of the Services or for items of services requested by a County agency that are required to be procured competitively under the County's Procurement Code, without the prior written approval of the County's Purchasing Director or designee. Contractor shall ensure that the agreement or contract with any approved Subcontractor requires the Subcontractor to comply with the applicable provisions of this Agreement.

3.4. Materials. All sketches, drawings, details, and other documents, plans, work papers, and creative materials prepared or provided by Contractor in connection with the Services, other than materials constituting trade secrets under applicable law, shall become the property of County and shall be delivered to the applicable County agency, without restriction or limitation as to use, promptly upon expiration, termination, or cancellation of this Agreement. If any County agency uses the material for a purpose other than in connection with the purposes for which they were originally provided, such County agency shall remove the name plate or any other features that would identify Contractor.

#### **ARTICLE 4. TERM AND TIME OF PERFORMANCE**

4.1. Term. The term of this Agreement shall begin on the date it is fully executed by the Parties ("Effective Date") and shall continue for a period of three (3) years from the Effective Date ("Initial Term"). The Initial Term, together with any Extension Term(s) and any other permitted extension, shall be referred to as the "Term."

4.2. Extensions. County may renew this Agreement for up to two (2) additional one (1) year terms (each an "Extension Term") by sending written notice of renewal to Contractor at least thirty (30) days prior to the expiration of the then-current term. The Purchasing Director is authorized to exercise this renewal option.

4.3. Additional Extension. If unusual or exceptional circumstances, as determined in the sole discretion of the Purchasing Director, render the exercise of an Extension Term not practicable, or if no Extension Term is available, and expiration of this Agreement would, as determined by the Purchasing Director, result in a gap in the provision of Services necessary for the ongoing operations of County, then the Purchasing Director may extend this Agreement on the same terms and conditions for period(s) not to exceed three (3) months in the aggregate, provided that any such extension is within the authority of the Purchasing Director or otherwise authorized by the Board. The Purchasing Director may exercise this option by written notice to Contractor

stating the duration of the extension period. Such notice must be provided at least thirty (30) days prior to the end of the then-current term.

4.4. Extension Rates and Terms. For any extension beyond the Initial Term, Contractor shall be compensated at the rates in effect when the extension was invoked by County, unless otherwise expressly stated in Exhibit B. Contractor shall continue to provide the Services upon the same terms and conditions as set forth in this Agreement, for such extended period.

4.5. Fiscal Year; Surtax Funds. The continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of transportation surtax funds in accordance with Chapter 129, Florida Statutes. Any amounts, costs, or expenses incurred by Contractor for Flat Fee Services that are ineligible for funding with transportation surtax dollars under Section 212.055(1), Florida Statutes, shall not be funded by County. The Parties agree and acknowledge that all funding provided by County to Contractor for Flat Fee Services shall be paid exclusively from and subject to the availability of proceeds from the transportation surtax levied pursuant to Section 212.055(1), Florida Statutes, and County shall not have any obligation to provide nor shall County provide any funding for Flat Fee Services from County's general revenue or any other County source.

4.6. Time of the Essence. Unless otherwise agreed by the Parties in writing, all duties, obligations, and responsibilities of Contractor required by this Agreement shall be completed no later than the deadlines established by the Contract Administrator. Time is of the essence in performing the duties, obligations, and responsibilities required by this Agreement.

## **ARTICLE 5. COMPENSATION**

5.1. Flat Fee Services. In exchange for Contractor's performance of the Flat Fee Services, County shall pay Contractor for Flat Fee Services actually performed, at the Hourly Rates stated in Exhibit B, up to an amount not to exceed ninety-three thousand seven hundred and fifty dollars (\$93,750). Flat Fee Services shall be invoiced monthly in arrears in accordance with Section 5.4.1 and Exhibit B. However, Contractor acknowledges and agrees that such amounts do not constitute a limitation of any sort upon Contractor's obligation to perform the Flat Fee Services.

Further, Contractor acknowledges and agrees that, as of the Effective Date, funding for Flat Fee Services has been authorized and budgeted under this Agreement only for ninety-three thousand seven hundred and fifty dollars (\$93,750). Additional surtax funds for Flat Fee Services are not currently authorized or budgeted, and Contractor shall have no right to payment of more than ninety-three thousand seven hundred and fifty dollars (\$93,750) for Flat Fee Services unless and until both of the following events occur: (a) the Transportation Surtax Oversight Board issues a determination that additional Flat Fee Services and the associated expenditures are eligible for surtax funding; and (b) based on County concurrence with such determination, this Agreement is amended to provide for Flat Fee Services.

5.2. Non-Flat Fee Services. In exchange for Contractor's performance of Non-Flat Fee Services pursuant to a Work Authorization, County shall pay Contractor in accordance with Exhibit B for

hours actually expended by Contractor in performance of the Non-Flat Fee Services required under the Work Authorization, plus any reimbursable expenses permitted under Exhibit B and incurred by Contractor in its performance of the Non-Flat Fee Services, subject to both the appropriation and the availability of funds and any maximum amount payable stated in the applicable Work Authorization. Further, Contractor acknowledges and agrees that, as of the Effective Date, no funding has been authorized or budgeted for Non-Flat Fee Services under this Agreement.

Work Authorizations must be executed by both County and Contractor. Subject to the limitations of Section 5.3, Work Authorizations shall be executed on behalf of County as follows: (a) the Contract Administrator may execute Work Authorizations in an aggregate dollar amount not to exceed \$50,000.00; (b) the Purchasing Director may execute Work Authorizations in an aggregate dollar amount that is within the Purchasing Director's delegated authority under the Broward County Procurement Code, Section 1-21, Broward County Ordinances; and (c) any Work Authorization (individually or in the aggregate) above the Purchasing Director's delegated authority must be executed by the Board. Subsequent to the full execution of any Work Authorization, the Contract Administrator will issue a Notice to Proceed for those authorized Non-Flat Fee Services. Contractor shall not commence work on any Work Authorization until after receipt of a purchase order and Notice to Proceed from the Contract Administrator.

5.3. Maximum Amount. Contractor agrees and understands that in no event shall the County pay Contractor more than two hundred sixty-two thousand five hundred dollars (\$262,500) annually, including both Flat Fee Services and Non-Flat Fee Services, during the Term of this Agreement. This limitation is in addition to the limitations set forth in Sections 5.1 and 5.2.

5.4 Invoices. Contractor shall submit invoices (an original plus one copy) by the 15<sup>th</sup> day of each calendar month for the Services provided by Contractor in the previous month, except that the final invoice must be received no later than sixty (60) days after expiration or earlier termination of this Agreement. Invoices must contain or include the following information:

- (a) Separately stated for Flat Fee Services and for Non-Flat Fee Services, the actual total hours worked by each of Contractor's employees on each specific task during the previous month, calculated in ten (10) minute increments, with a description of the work performed, tasks accomplished, and any other information deemed necessary by the Contract Administrator to support and verify the time entries;
- (b) All Reimbursable Expenses incurred by Contractor in the previous month along with receipts of such expenses and whatever other information the Contract Administrator deems necessary to substantiate such expenses;
- (c) For Non-Flat Fee Services, the number and subject matter of the Work Authorization pursuant to which Contractor performed the Non-Flat Fee Services;

(d) For invoices seeking payment for work performed by a Subcontractor, an invoice and/or receipt from the Subcontractor with the same information and detail required by Section 5.4.(a)-(d), as applicable. Contractor shall invoice all Subcontractor fees to County with no markup, and in the actual amount paid by Contractor. Invoices that include work performed by a Subcontractor must also include a Certification of Payments to Subcontractors and Suppliers (Exhibit F). In the event Contractor has not paid a Subcontractor for work performed, the Certification must be accompanied by a copy of the notification sent to each Subcontractor and supplier listed in item 2 of Exhibit B, explaining the good cause why payment has not been made.

5.4.1 Invoices for Flat Fee Services shall state a “gross amount,” which shall be calculated by multiplying the number of hours worked by Contractor by the Hourly Rate specified in Exhibit B, and adding that number to the dollar amount of Reimbursable Expenses and Subcontractor fees, if any. If the gross amount is equal to or less than the “Monthly Flat Fee” of nine thousand three hundred thirty-three dollars and thirty-three cents (\$9,333.33), the gross amount shall be stated as the amount due. If the gross amount exceeds the Monthly Flat Fee, the amount due shall be the Monthly Flat Fee, but the invoice shall also list an “overage,” which shall be the difference between the gross amount and the Monthly Flat Fee.

The amount of any overage(s) may be invoiced on any subsequent invoice, but no invoice for Flat Fee Services shall state an amount due greater than the Monthly Flat Fee, regardless of any overage(s). Once Contractor has received the total compensation available for Flat Fee Services (*i.e.*, \$93,750), Contractor shall not invoice the County for any overage(s), and County shall have no obligations to pay such overages.

5.4.2 Invoices for Non-Flat Fee Services shall be in the amount of the applicable Hourly Rate multiplied by the hours worked by Contractor, plus the dollar amount of Reimbursable Expenses and Subcontractor fees, if any.

5.5 Payment. County shall pay Contractor within thirty (30) days of receipt of Contractor’s proper invoice, as such payment is 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 to the Contract Administrator. Payment may be withheld for failure of Contractor to comply with a term, condition, or requirement of this Agreement. Payment shall be made to Contractor at the address designated in the Notices section.

Contractor shall pay Subcontractors and suppliers within fifteen (15) days following receipt of payment from County for such subcontracted work or supplies. Failure to pay a Subcontractor or supplier in accordance with this subsection shall be a material breach of this Agreement, unless Contractor demonstrates to Contract Administrator’s satisfaction that such failure to pay results from a bona fide dispute with the Subcontractor or supplier and, further, Contractor promptly

pays the applicable amount(s) to the Subcontractor or supplier upon resolution of the dispute. Contractor shall include requirements substantially similar to those set forth in this subsection in its contracts with Subcontractors and suppliers.

5.6 Travel Costs and Expenses. For reimbursement of any travel costs or travel-related expenses permitted under this Agreement, Contractor agrees to comply with Section 112.061, Florida Statutes, except to the extent that Exhibit B expressly provides to the contrary. County shall not be liable for any expenses that exceed those allowed by Section 112.061 or that have not been approved in writing in advance by the Contract Administrator.

5.7 Withholding by County. 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 any provision of this Agreement. The amount withheld shall not be subject to payment of interest by County.

## **ARTICLE 6. REPRESENTATIONS AND WARRANTIES**

6.1. Representation of Authority. Contractor represents and warrants that this Agreement constitutes the legal, valid, binding, and enforceable obligation of Contractor, and that neither the execution nor performance of this Agreement constitutes a breach of any agreement that Contractor has with any third party or violates any law, rule, regulation, or duty arising in law or equity applicable to Contractor. Contractor further represents and warrants that execution of this Agreement is within Contractor's legal powers, and each individual executing this Agreement on behalf of Contractor is duly authorized by all necessary and appropriate action to do so on behalf of Contractor and does so with full legal authority.

6.2. Solicitation Representations. Contractor represents and warrants that all statements and representations made in Contractor's proposal, bid, or other supporting documents submitted to County in connection with the solicitation, negotiation, or award of this Agreement, including during the procurement or evaluation process, were true and correct when made and are true and correct as of the date Contractor executes this Agreement, unless otherwise expressly disclosed in writing by Contractor.

6.3. Contingency Fee. Contractor represents that it has not paid or agreed to pay any person or entity, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement.

6.4. Truth-In-Negotiation Representation. Contractor's compensation under this Agreement is based upon its representations to County, and Contractor certifies that the wage rates, factual unit costs, and other information supplied to substantiate Contractor's compensation, including without limitation those made by Contractor during the negotiation of this Agreement, are accurate, complete, and current as of the date Contractor executes this Agreement. Contractor's

compensation will be reduced to exclude any significant sums by which the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs.

6.5. Public Entity Crime Act. Contractor 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. Contractor 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 Contractor has been placed on the convicted vendor list.

6.6. Discriminatory Vendor and Scrutinized Companies Lists. Contractor represents that it has not been placed on the “discriminatory vendor list” as provided in Section 287.134, Florida Statutes, and that it is not a “scrutinized company” pursuant to Section 215.473, Florida Statutes. Contractor represents and certifies that it is not ineligible to contract with County on any of the grounds stated in Section 287.135, Florida Statutes.

6.7. Claims Against Contractor. Contractor represents and warrants that there is no action or proceeding, at law or in equity, before any court, mediator, arbitrator, governmental or other board or official, pending or, to the knowledge of Contractor, threatened against or affecting Contractor, the outcome of which may (a) affect the validity or enforceability of this Agreement, (b) materially and adversely affect the authority or ability of Contractor to perform its obligations under this Agreement, or (c) have a material and adverse effect on the consolidated financial condition or results of operations of Contractor or on the ability of Contractor to conduct its business as presently conducted or as proposed or contemplated to be conducted.

6.8. Warranty of Performance. Contractor represents and warrants that it possesses the knowledge, skill, experience, and financial capability required to perform and provide all Services and that each person and entity that will provide Services 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 such Services. Contractor represents and warrants that the Services 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.

6.9. Domestic Partnership Requirement. Unless this Agreement is exempt from the provisions of the Broward County Domestic Partnership Act, Section 16½-157, Broward County Code of Ordinances, Contractor certifies and represents that it will comply with the provisions of Section 16½-157 for the duration of this Agreement. The contract language referenced in Section 16½-157 is deemed incorporated in this Agreement as though fully set forth in this section.

6.10. Breach of Representations. In entering into this Agreement, Contractor acknowledges that County is materially relying on the representations, warranties, and certifications of Contractor stated in this article. County shall be entitled to recover any damages it incurs to the extent any such representation or warranty is untrue. In addition, if any such representation,



warranty, or certification is false, County shall have the right, at its sole discretion, to terminate this Agreement without any further liability to Contractor, to deduct from any amounts due Contractor under this Agreement the full amount of any value paid in violation of a representation or warranty, and to recover all sums paid to Contractor under this Agreement. Furthermore, a false representation may result in debarment from County's procurement activities.

#### **ARTICLE 7. INDEMNIFICATION**

Contractor shall indemnify, hold harmless, and defend County and all of County's current, past, and future 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, including through the conclusion of any appellate proceedings, raised or asserted by any person or entity not a party to this Agreement, and caused or alleged to be caused, in whole or in part, by any intentional, reckless, or negligent act or omission of Contractor, its officers, employees, agents, or servants, arising from, relating to, or in connection with this Agreement (collectively, a "Claim"). If any Claim is brought against an Indemnified Party, Contractor 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 the County Attorney to defend the Indemnified Party. The obligations of this section shall survive the expiration or earlier termination of this Agreement. If considered necessary by the Contract Administrator and the County Attorney, any sums due Contractor under this Agreement may be retained by County until all Claims subject to this indemnification obligation have been settled or otherwise resolved. Any amount withheld shall not be subject to payment of interest by County.

#### **ARTICLE 8. INSURANCE**

8.1. For the duration of the Agreement, Contractor shall, at its sole expense, maintain the minimum insurance coverages stated in Exhibit C in accordance with the terms and conditions of this article. Contractor shall maintain insurance coverage against claims relating to any act or omission by Contractor, its agents, representatives, employees, or Subcontractors in connection with this Agreement. County reserves the right at any time to review and adjust the limits and types of coverage required under this article.

8.2. Contractor shall ensure that "Broward County" is listed and endorsed as an additional insured as stated in Exhibit C on all policies required under this article.

8.3. On or before the Effective Date or at least fifteen (15) days prior to commencement of Services, Contractor shall provide County with a copy of all Certificates of Insurance or other documentation sufficient to demonstrate the insurance coverage required in this article. If and to the extent requested by County, Contractor shall provide complete, certified copies of all required insurance policies and all required endorsements within thirty (30) days after County's request.

8.4. Contractor shall ensure that all insurance coverages required by this article shall remain in full force and effect for the duration of this Agreement and until all performance required by Contractor has been completed, as determined by Contract Administrator. Contractor or its insurer shall provide notice to County of any cancellation or modification of any required policy at least thirty (30) days prior to the effective date of cancellation or modification, and at least ten (10) days prior to the effective date of any cancellation due to nonpayment, and shall concurrently provide County with a copy of its updated Certificates of Insurance evidencing continuation of the required coverage(s). Contractor shall ensure that there is no lapse of coverage at any time during the time period for which coverage is required by this article.

8.5. Contractor shall ensure that all required insurance policies are issued by insurers: (1) assigned an A. M. Best rating of at least "A-" with a Financial Size Category of at least Class VII; (2) authorized to transact insurance in the State of Florida; or (3) a qualified eligible surplus lines insurer pursuant to Section 626.917 or 626.918, Florida Statutes, with approval by County's Risk Management Division.

8.6. If Contractor maintains broader coverage or higher limits than the minimum insurance requirements stated in Exhibit C, County shall be entitled to any such broader coverage and higher limits maintained by Contractor. All required insurance coverages under this article shall provide primary coverage and shall not require contribution from any County insurance, self-insurance or otherwise, which shall be in excess of and shall not contribute to the insurance required and provided by Contractor.

8.7. Contractor shall declare in writing any self-insured retentions or deductibles over the limit(s) prescribed in Exhibit C and submit to County for approval at least fifteen (15) days prior to the Effective Date or commencement of Services. Contractor shall be solely responsible for and shall pay any deductible or self-insured retention applicable to any claim against County. County may, at any time, require Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. Contractor agrees that any deductible or self-insured retention may be satisfied by either the named insured or County, if so elected by County, and Contractor agrees to obtain same in endorsements to the required policies.

8.8. Unless prohibited by the applicable policy, Contractor waives any right to subrogation that any of Contractor's insurer may acquire against County, and agrees to obtain same in an endorsement of Contractor's insurance policies.

8.9. Contractor shall require that each Subcontractor maintains insurance coverage that adequately covers the Services provided by that Subcontractor on substantially the same insurance terms and conditions required of Contractor under this article. Contractor shall ensure that all such Subcontractors comply with these requirements and that "Broward County" is named as an additional insured under the Subcontractors' applicable insurance policies.

8.10. If Contractor or any Subcontractor fails to maintain the insurance required by this Agreement, County may pay any costs of premiums necessary to maintain the required coverage

and deduct such costs from any payment otherwise due to Contractor. Contractor shall not permit any Subcontractor to provide Services unless and until the requirements of this article are satisfied. If requested by County, Contractor shall provide, within one (1) business day, evidence of each Subcontractor's compliance with this section.

8.11. If any of the policies required under this article provide claims-made coverage: (1) any retroactive date must be prior to the Effective Date; (2) the required coverage must be maintained after termination or expiration of the Agreement for at least the duration stated in Exhibit C, and (3) if coverage is canceled or nonrenewed and is not replaced with another claims-made policy form with a retroactive date prior to the Effective Date, Contractor must obtain and maintain "extended reporting" coverage that applies after termination or expiration of the Agreement for at least the duration stated in Exhibit C.

## **ARTICLE 9. TERMINATION**

9.1. This Agreement may be terminated for cause by the aggrieved Party if the Party in breach has not corrected the breach within ten (10) 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) 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 if 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 be deemed a termination for convenience and shall be effective thirty (30) days after such notice of termination for cause was provided and Contractor shall be eligible for the compensation provided in Section 9.4 as its sole remedy.

9.2. This Agreement may be terminated for cause by County for reasons including, but not limited to, any of the following:

9.2.1. Contractor's failure to suitably or continuously perform the Services in a manner calculated to meet or accomplish the objectives in this Agreement or Work Authorization, or repeated submission (whether negligent or intentional) for payment of false or incorrect bills or invoices;

9.2.2. By the Contract Administrator or the Director of Office of Economic and Small Business Development ("OESBD") for any fraud, misrepresentation, or material misstatement by Contractor in the award or performance of this Agreement or that otherwise violates any applicable requirement of Section 1-81, Broward County Code of Ordinances; or

9.2.3. By the Director of OESBD upon the disqualification of Contractor as a CBE or SBE if Contractor's status as a CBE or SBE was a factor in the award of this Agreement and such status was misrepresented by Contractor, or upon the disqualification of one or

more of Contractor's CBE or SBE participants by County's Director of OESBD if any such participant's status as a CBE or SBE firm was a factor in the award of this Agreement and such status was misrepresented by Contractor during the procurement or the performance of this Agreement.

9.3. Notice of termination shall be provided in accordance with the "Notices" section of this Agreement except that notice of termination by the County Administrator to protect the public health, safety, or welfare may be oral notice that shall be promptly confirmed in writing.

9.4. If this Agreement is terminated for convenience by County, Contractor shall be paid for any Services properly performed through the termination date specified in the written notice of termination, subject to any right of County to retain any sums otherwise due and payable. Contractor acknowledges that it has received good, valuable, and sufficient consideration for County's right to terminate this Agreement for convenience in the form of County's obligation to provide advance notice to Contractor of such termination in accordance with Section 9.1.

9.5. In addition to any right of termination stated in this Agreement, County shall be entitled to seek any and all available remedies, whether stated in this Agreement or otherwise available at law or in equity.

#### **ARTICLE 10. EQUAL EMPLOYMENT OPPORTUNITY AND CBE COMPLIANCE**

10.1. No Party 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. Contractor shall include the foregoing or similar language in its contracts with any Subcontractors, except that any project assisted by the U.S. Department of Transportation funds shall comply with the nondiscrimination requirements in 49 C.F.R. Parts 23 and 26.

10.2. Contractor shall comply with all applicable requirements of Section 1-81, Broward County Code of Ordinances, in the award and administration of this Agreement. Failure by Contractor to carry out any of the requirements of this article shall constitute a material breach of this Agreement, which shall permit County to terminate this Agreement or exercise any other remedy provided under this Agreement, the Broward County Code of Ordinances, the Broward County Administrative Code, or under other applicable law, all such remedies being cumulative.

10.3. Contractor will meet the required CBE goal by utilizing the CBE firms listed in Exhibit E (or a CBE firm substituted for a listed firm, if permitted) for Thirty percent (30%) of total Services (the "Commitment").

10.4. In performing the Services, Contractor shall utilize the CBE firms listed in Exhibit E for the scope of work and the percentage of work amounts identified on each Letter of Intent. Promptly upon execution of this Agreement by County, Contractor shall enter into formal contracts with the firms listed in Exhibit E and, upon request, shall provide copies of the contracts to the Contract Administrator and OESBD.

10.5. Each CBE firm utilized by Contractor to meet the CBE goal must be certified by OESBD. Contractor shall inform County immediately when a CBE firm is not able to perform or if Contractor believes the CBE firm should be replaced for any other reason, so that OESBD may review and verify the good faith efforts of Contractor to substitute the CBE firm with another CBE firm, as applicable. Whenever a CBE firm is terminated for any reason, Contractor shall provide written notice to OESBD and, upon written approval of the Director of OESBD, shall substitute another CBE firm in order to meet the CBE goal, unless otherwise provided in this Agreement or agreed in writing by the Parties. Such substitution shall not be required if the termination results from modification of the Scope of Services and no CBE firm is available to perform the modified Scope of Services; in which event, Contractor shall notify County, and OESBD may adjust the CBE goal by written notice to Contractor. Contractor shall not terminate a CBE firm for convenience without County's prior written consent, which consent shall not be unreasonably withheld.

10.6. The Parties stipulate that if Contractor fails to meet the Commitment, the damages to County arising from such failure are not readily ascertainable at the time of contracting. If Contractor fails to meet the Commitment and County determines, in the sole discretion of the OESBD Program Director, that Contractor failed to make Good Faith Efforts (as defined in Section 1-81, Broward County Code of Ordinances) to meet the Commitment, Contractor shall pay County liquidated damages in an amount equal to fifty percent (50%) of the actual dollar amount by which Contractor failed to achieve the Commitment, up to a maximum amount of ten percent (10%) of the total contract amount excluding costs and reimbursable expenses. An example of this calculation is stated in Section 1-81.7, Broward County Code of Ordinances. As elected by County, such liquidated damages amount shall be either credited against any amounts due from County, or must be paid to County within thirty (30) days after written demand. These liquidated damages shall be County's sole contractual remedy for Contractor's breach of the Commitment, but shall not affect the availability of administrative remedies under Section 1-81. Any failure to meet the Commitment attributable solely to force majeure, changes to the scope of work by County, or inability to substitute a CBE Subcontractor where the OESBD Program Director has determined that such inability is due to no fault of Contractor, shall not be deemed a failure by Contractor to meet the Commitment.

10.7. Contractor acknowledges that the Board, acting through OESBD, may make minor administrative modifications to Section 1-81, Broward County Code of Ordinances, which shall become applicable to this Agreement if the administrative modifications are not unreasonable. Written notice of any such modification shall be provided to Contractor and shall include a deadline for Contractor to notify County in writing if Contractor concludes that the modification exceeds the authority under this section. Failure of Contractor to timely notify County of its conclusion that the modification exceeds such authority shall be deemed acceptance of the modification by Contractor.

10.8. County may modify the required participation of CBE firms in connection with any amendment, extension, modification, change order, or Work Authorization to this Agreement that, by itself or aggregated with previous amendments, extensions, modifications, change orders, or Work Authorizations, increases the initial Agreement price by ten percent (10%) or

more. Contractor shall make a good faith effort to include CBE firms in work resulting from any such amendment, extension, modification, change order, or Work Authorization, and shall report such efforts, along with evidence thereof, to OESBD.

10.9. Contractor shall provide written monthly reports to the Contract Administrator attesting to Contractor's compliance with the CBE goal stated in this article. In addition, Contractor shall allow County to engage in onsite reviews to monitor Contractor's progress in achieving and maintaining Contractor's contractual and CBE obligations. The Contract Administrator in conjunction with OESBD shall perform such review and monitoring, unless otherwise determined by the County Administrator.

10.10. The Contract Administrator may increase allowable retainage or withhold progress payments if Contractor fails to demonstrate timely payments of sums due to all Subcontractors and suppliers. The presence of a "pay when paid" provision in a Contractor's contract with a CBE firm shall not preclude County or its representatives from inquiring into allegations of nonpayment.

## **ARTICLE 11. MISCELLANEOUS**

11.1. Contract Administrator Authority. The Contract Administrator is authorized to coordinate and communicate with Contractor to manage and supervise the performance of this Agreement. Unless expressly stated otherwise in this Agreement or otherwise set forth in an applicable provision of the Broward County Procurement Code, Broward County Code of Ordinances, or Broward County Administrative Code, the Contract Administrator may exercise any ministerial authority in connection with the day-to-day management of this Agreement. The Contract Administrator may approve in writing minor modifications to the Scope of Services provided that such modifications do not increase the total cost to County or waive any rights of County.

11.2. Rights in Documents and Work. Any and all reports, photographs, surveys, documents, materials, or other work created by Contractor in connection with performing Services shall be owned by County, and Contractor hereby transfers to County all right, title, and interest, including any copyright or other intellectual property rights, in or to the work. Upon termination of this Agreement, any reports, photographs, surveys, and other data and documents prepared by Contractor, whether finished or unfinished, shall become the property of County and shall be delivered by Contractor to the Contract Administrator within seven (7) days after termination of this Agreement. Any compensation due to Contractor may be withheld until all documents are received as provided in this Agreement. Contractor shall ensure that the requirements of this section are included in all agreements with its Subcontractor(s).

11.3. Public Records. To the extent Contractor is acting on behalf of County as stated in Section 119.0701, Florida Statutes, Contractor shall:

11.3.1. Keep and maintain public records required by County to perform the Services;

11.3.2. Upon request from County, provide County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

11.3.3. Ensure that public records that are exempt or confidential and exempt from public record requirements are not disclosed except as authorized by law for the duration of this Agreement and following completion or termination of this Agreement if the records are not transferred to County; and

11.3.4. Upon completion or termination of this Agreement, transfer to County, at no cost, all public records in possession of Contractor or keep and maintain public records required by County to perform the services. If Contractor transfers the records to County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt. If Contractor keeps and maintains the public records, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to County upon request in a format that is compatible with the information technology systems of County.

A request for public records regarding this Agreement must be made directly to County, who will be responsible for responding to any such public records requests. Contractor will provide any requested records to County to enable County to respond to the public records request.

Any material submitted to County that Contractor contends constitutes or contains trade secrets or is otherwise exempt from production under Florida public records laws (including Chapter 119, Florida Statutes) (“Trade Secret Materials”) must be separately submitted and conspicuously labeled “EXEMPT FROM PUBLIC RECORD PRODUCTION – TRADE SECRET.” In addition, Contractor must, simultaneous with the submission of any Trade Secret Materials, provide a sworn affidavit from a person with personal knowledge attesting that the Trade Secret Materials constitute trade secrets under Section 812.081, Florida Statutes, and stating the factual basis for same. If a third party submits a request to County for records designated by Contractor as Trade Secret Materials, County shall refrain from disclosing the Trade Secret Materials, unless otherwise ordered by a court of competent jurisdiction or authorized in writing by Contractor. Contractor shall indemnify and defend County and its employees and agents from any and all claims, causes of action, losses, fines, penalties, damages, judgments and liabilities of any kind, including attorneys’ fees, litigation expenses, and court costs, relating to the nondisclosure of any Trade Secret Materials in response to a records request by a third party.

**IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (954) 357-5955, SMEDVIN@BROWARD.ORG, 115 S. ANDREWS AVE., SUITE 506, FORT LAUDERDALE, FLORIDA 33301.**

11.4. Audit Rights and Retention of Records. County shall have the right to audit the books, records, and accounts of Contractor and its Subcontractors that are related to this Agreement. Contractor and its Subcontractors shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to this Agreement and performance under this Agreement. All such books, records, and accounts 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, Contractor or its Subcontractor shall make same available in written form at no cost to County.

Contractor and its Subcontractors shall preserve and make available, at reasonable times within Broward County, Florida, for examination and audit, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for at least three (3) years after expiration or termination of this Agreement or until resolution of any audit findings, whichever is longer. Any audit or inspection pursuant to this section may be performed by any County representative (including any outside representative engaged by County). Contractor hereby grants County the right to conduct such audit or review at Contractor'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 Contractor in excess of five percent (5%) of the total contract billings reviewed by County, the reasonable actual cost of County's audit shall be reimbursed to County by Contractor 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 after presentation of County's findings to Contractor.

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

11.5. Independent Contractor. Contractor is an independent contractor of County, and nothing in this Agreement shall constitute or create a partnership, joint venture, or any other relationship between the Parties. In providing Services, neither Contractor nor its agents shall act as officers, employees, or agents of County. Contractor shall not have the right to bind County to any obligation not expressly undertaken by County under this Agreement.

11.6. Regulatory Capacity. Notwithstanding the fact that County is a political subdivision with certain regulatory authority, County's performance under this Agreement is as a Party to this Agreement and not in its regulatory capacity. If County exercises its regulatory authority, the exercise of such authority and the enforcement of any rules, regulation, laws, and ordinances shall have occurred pursuant to County's regulatory authority as a governmental body separate and apart from this Agreement, and shall not be attributable in any manner to County as a party to this Agreement.



11.7. Sovereign Immunity. Except to the extent sovereign immunity may be deemed to be waived by entering into this Agreement, nothing herein is intended to serve as a waiver of sovereign immunity by County nor shall anything included herein be construed as consent by County to be sued by third parties in any matter arising out of this Agreement. County is a political subdivision as defined in Section 768.28, Florida Statutes, and shall be responsible for the negligent or wrongful acts or omissions of its employees pursuant to Section 768.28, Florida Statutes.

11.8. Third-Party Beneficiaries. Neither Contractor nor County intends to directly or substantially benefit a third party by this Agreement. Therefore, the Parties acknowledge that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

11.9. 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, hand delivery, or commercial overnight delivery, each with a contemporaneous copy via email, to the addresses listed below and shall be effective upon mailing or hand delivery (provided the contemporaneous email is also sent). The addresses for notice shall remain as set forth in this section unless and until changed by providing notice of such change in accordance with the provisions of this section.

FOR COUNTY:

Broward County Office of Public Communications  
Attn: Margaret Stapleton  
115 South Andrews Avenue, Room 506  
Fort Lauderdale, Florida 33301  
Email address: mstapleton@broward.org

FOR CONTRACTOR:

Adept Public Relations, LLC  
Attn: Dana Pollitt  
5300 Powerline Road, Suite 207  
Fort Lauderdale, Florida 33309  
Email address: dana@adept.com

11.10. Assignment. All Subcontractors must be expressly identified in this Agreement or otherwise approved in advance and in writing by County's Contract Administrator. Except for subcontracting approved by County in advance, neither this Agreement nor any right or interest in it may be assigned, transferred, subcontracted, or encumbered by Contractor without the prior written consent of County. Any assignment, transfer, encumbrance, or subcontract in violation of this section shall be void and ineffective, constitute a breach of this Agreement, and permit County to immediately terminate this Agreement, in addition to any other remedies available to County at law or in equity.

11.11. Conflicts. Neither Contractor nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Contractor's loyal and conscientious exercise of judgment and care related to its performance under this Agreement. During the term of this Agreement, none of Contractor's officers or employees shall serve as an expert witness against County in any legal or administrative proceeding in which he, she, or Contractor 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 that 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 Contractor or any persons in any way from representing themselves, including giving expert testimony in support of such representation, in any action or in any administrative or legal proceeding. If Contractor is permitted pursuant to this Agreement to utilize Subcontractors to perform any Services required by this Agreement, Contractor shall require such Subcontractors, by written contract, to comply with the provisions of this section to the same extent as Contractor.

11.12. Materiality and Waiver of Breach. Each requirement, duty, and obligation set forth in this Agreement was bargained for at arm's-length and is agreed to by the Parties. Each requirement, duty, and obligation set forth in this Agreement is substantial and important to the formation of this Agreement, and each is, therefore, a material term of this Agreement. 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. To be effective, any waiver must be in writing signed by an authorized signatory of the Party granting the waiver.

11.13. Compliance with Laws. Contractor and the Services must comply with all applicable federal, state, and local laws, codes, ordinances, rules, and regulations including, without limitation, American with Disabilities Act, 42 U.S.C. § 12101, Section 504 of the Rehabilitation Act of 1973, and any related federal, state, or local laws, rules, and regulations.

11.14. Severability. If 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.

11.15. Joint Preparation. This Agreement has been jointly prepared by the Parties, and shall not be construed more strictly against either Party.

11.16. Interpretation. The titles and 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. Any reference to “days” means calendar days, unless otherwise expressly stated.

11.17. Priority of Provisions. If there is a conflict or inconsistency between any term, statement, requirement, or provision of any document or exhibit attached to, referenced by, or incorporated in this Agreement and any provision of Articles 1 through 11 of this Agreement, the provisions contained in Articles 1 through 11 shall prevail and be given effect.

11.18. 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 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 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, CONTRACTOR 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.**

11.19. Amendments. No modification, amendment, or alteration in the terms or conditions contained in this Agreement shall be effective unless contained in a written document prepared with the same or similar formality as this Agreement and executed by duly authorized representatives of County and Contractor.

11.20. Prior Agreements. This Agreement represents the final and complete understanding of the Parties regarding the subject matter 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.

11.21. Payable Interest

11.21.1. Payment of Interest. County shall not be liable to pay any interest to Contractor for any reason, whether as prejudgment interest or for any other purpose, and in furtherance thereof Contractor 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 subsection shall not apply to any claim for interest, including for post-judgment interest, if such application would be contrary to applicable law.

11.21.2. Rate of Interest. If the preceding subsection is inapplicable or 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, one quarter of one percent (0.25%) simple interest (uncompounded).

11.22. Incorporation by Reference. Any and all Recital clauses stated above are true and correct and are incorporated in this Agreement by reference. The attached Exhibits are incorporated into and made a part of this Agreement.

11.23. 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.

11.24. Use of County Logo. Contractor 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.

11.25. Drug-Free Workplace. To the extent required under Section 21.31(a)(2), Broward County Administrative Code, or Section 287.087, Florida Statutes, Contractor certifies that it has a drug-free workplace program that it will maintain such drug-free workplace program for the duration of this Agreement.

11.26. Living Wage Requirement. If Contractor is a "covered employer" within the meaning of the Broward County Living Wage Ordinance, Sections 26-100 through 26-105, Broward County Code of Ordinances, Contractor agrees to and shall pay to all of its employees providing "covered services," as defined in the ordinance, a living wage as required by such ordinance, and Contractor shall fully comply with the requirements of such ordinance. Contractor shall ensure all of its Subcontractors that qualify as "covered employers" fully comply with the requirements of such ordinance.

(The remainder of this page is intentionally left 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 Contractor, signing by and through its \_\_\_\_\_ duly authorized to execute same.

COUNTY

ATTEST:

\_\_\_\_\_  
Broward County Administrator, as  
ex officio Clerk of the Broward County  
Board of County Commissioners

BROWARD COUNTY, by and through  
its Board of County Commissioners

By: \_\_\_\_\_  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

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: \_\_\_\_\_  
Angela J. Wallace (Date)  
Transportation Surtax General Counsel

AJW/wp  
Adept Communications and Marketing Agreement.doc  
08/20/2020  
#\_\_\_\_\_

AGREEMENT BETWEEN BROWARD COUNTY AND ADEPT PUBLIC RELATIONS, LLC, FOR  
COMMUNICATIONS AND MARKETING SERVICES (RFP # GEN2119422P1)

CONTRACTOR

WITNESSES:

[Signature]  
Signature

MICHAEL D. BUCKWOLD  
Print Name of Witness above

[Signature]  
Signature

DOTY SAUGHTER  
Print Name of Witness above

ADEPT PUBLIC RELATIONS, LLC

By: [Signature]  
Authorized Signor

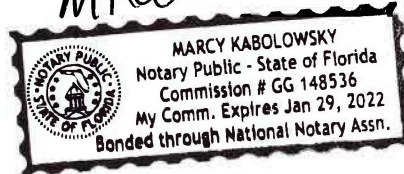
Dana Blitt, Manager Partner  
Print Name and Title

24 day of August, 2020

ATTEST:

[Signature]  
Corporate Secretary or other person  
authorized to attest

(CORPORATE SEAL OR NOTARY)

M Kabolowsky  


8/24/2020

## EXHIBIT A-1 – Flat Fee Services

### 1. Surtax Branding, Media and Marketing Services

- 1.1 Create new Transportation Surtax Plan branding designs as needed to support County objectives, while preserving the consistency of the overall County brand.
- 1.2 Assist the County in assessing, refining, supporting and defending the County's Transportation Surtax Plan brand, across all potential venues and geographic areas.
- 1.3 Make recommendations for Transportation Surtax Plan brand enhancements to represent the County as a well-managed, transparent, innovative and responsive local government, a good corporate citizen and an economic engine for the South Florida region.
- 1.4 Attend and/or participate in County meetings, conferences and retreats as requested.
- 1.5 Compile and maintain a comprehensive media list comprised of journalists who cover County's various lines of business including but not limited to major media, community and ethnic outlets.
- 1.6 Prepare and maintain a professionally written and designed media information kit in multiple languages (at a minimum, English, Spanish, and Creole).
- 1.7 Train identified County spokespersons in effectively responding to media inquiries on the Transportation Surtax Plan.
- 1.8 Annually update strategic plan specified in Section 1.13 below.
- 1.9 Annually update print, broadcast and digital media plan specified in Section 1.13 below.
- 1.10 Annually conduct surveys and other public outreach activities, such as focus groups or town halls, to test marketing concepts, assess customer satisfaction and direct future activities.
- 1.11 Identify and engage independent community and business leaders ("Trusted Voices") who have knowledge about the Transportation Surtax Plan, and it's benefits and who are credible in their field to submit opinion articles and letters to local and national media.

- 1.12 Research, develop, submit, and follow up to secure placement of opinion pieces, guest editorials and participations in editorial boards by County officials for local and national distribution regarding the Transportation Surtax Plan.

1.13 **Research and Planning Services**

Create a strategic plan; to garner positive traditional and social media coverage for the County's branding and marketing opportunities, such as construction and/or public works project milestones, new program/service launches, special events and environmental initiatives.

Create and implement print, broadcast and digital media plan with messaging in multiple languages (at a minimum, English, Spanish, and Creole).

1.14 **Digital Content Delivery Services**

- 1.14.1 Manage subject matter specific, two-way, 24/7 social media accounts as requested.
- 1.14.2 Monitor social media 24/7 for both positive and negative comments and respond appropriately and in the best interest of the County.
- 1.14.3 Report social media metrics and identify social media trends that may influence public opinion. Flag potential issues as they arise and report timely.



**EXHIBIT A-2 – Non-Flat Fee Services  
Non-Surtax Services for other County Agencies**

**1. Branding**

- 1.1 Assist the County in assessing, refining, supporting and defending the County's general brand, across all potential venues and geographic areas.
- 1.2 Make recommendations for general brand enhancements to represent the County as a well-managed, transparent, innovative and responsive local government, a good corporate citizen and an economic engine for the South Florida region.
- 1.3 Implement, and/or recommend to the County, activities to generate positive recognition for the County and the services provided to residents, visitors and businesses. Report metrics of effectiveness of efforts.
- 1.4 Train identified County spokespersons in effectively responding to media inquiries on issues other than the Transportation Surtax.
- 1.5 Mitigate and respond to negative publicity that is damaging to the County brand. Report metrics of effectiveness of efforts.

**2. Research and Planning Services**

- 2.1 Create strategic plan to garner positive traditional and social media coverage for the County's branding and marketing opportunities, such as construction and/or public works project milestones, new program/service launches, special events and environmental initiatives.
- 2.2 Create and implement print, broadcast, and digital media plan with messaging in multiple languages (at a minimum, English, Spanish, and Creole).
- 2.3 Conduct surveys and other public outreach activities, such as focus groups or town halls, to test marketing concepts, assess customer satisfaction and direct future activities.

**3. Media Services**

- 3.1 Manage media relations proactively, and in a timely and responsive manner. Manage the spread of rumors and/or inaccurate information.
- 3.2 Negotiate and place paid and non-paid media according to the media plan. Report metrics. Execute all contracts related to placement of media and any third parties associated with services. All such contracts shall be entered into as an independent contractor and not as an agent of or on behalf of the County.

- 3.3 Identify and engage Trusted Voices who have knowledge about various County services and their benefits and who are credible in their field to submit opinion articles and letters to local and national media.
- 3.4 Research, develop, submit, and follow up to secure placement of opinion pieces, guest editorials and participation in editorial boards by County officials for local and national distribution regarding various County issues.
- 3.5 Develop subject matter-specific key messages and talking points for primary County spokespersons.

#### **4. Design and Production Services**

- 4.1 Create new program branding designs as needed to support County objectives, while preserving the consistency of the overall County brand.
- 4.2 Write and design brochures, flyers, fact sheets, invitations, displays, infographics, and other written material in multiple languages as requested.
- 4.3 Manage printing, production, and distribution of printed materials. County print shop will be granted first right of refusal on printing jobs that it can produce at a competitive price.

#### **5. Outreach**

- 5.1 Recommend, plan, implement and manage special events that engage the Community in County government and garner press coverage.
- 5.2 Organize news conference launches of key programs and services.
- 5.3 Identify and engage County and Community stakeholders to participate in Speaker's Bureaus and assist County in identifying speaking opportunities.

#### **6. Digital Content Delivery Services**

- 6.1 Develop a Countywide social media protocol.
- 6.2 Make recommendations for effectively staffing and managing a social media program.
- 6.3 Develop and maintain special purpose websites as requested, actively marketing them as a resource with current, up-to-date information, changing visuals and interactivity.

- 6.4 Development and management of integrated mobility and marketing app for Web, iOS and Android platforms providing integrated real-time multi-modal transportation route planning incorporating public and private transportation options. Incorporate geo-fencing, location-based push notifications to market County events, services, and transportation options to residents and visitors and provide notice of road closures, etc. Develop overall data compatibility and consistency program to ensure integration, continuation and consistency of various county data sources feeding marketing app.

## **7. Video Scripting and Production**

Create original, short- and/or long-feature video programming in multiple languages (e.g. public service announcements, video shorts, documentary style programming); including but not limited to: script development, videography, audio editing/sweetening, video editing, motion graphics, graphics, grip services, production coordinator, and 3D animation.

**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.

**Table A: Hourly Services/Payment**

Description	Unit	Invoicing	Amount
Flat Fee Services	Monthly Payment \$9,333.33	Monthly in arrears	Pursuant to Section 5.4.1 Non-Digital Content Services \$ 155.00/hour  Digital Content Services \$ 45.00/hour
Non-Flat Fee Services (pursuant to Work Authorizations)	Hourly	Monthly in arrears, unless otherwise stated in the Work Authorization	Non-Digital Content Services \$ 155.00/hour  Digital Content Services \$ 45.00/hour

**Table B: Reimbursable Expenses for Non-Flat Fee Services** (subject to the reimbursement limitations stated in Florida Statutes Section 112.061).

Contractor shall only be entitled to Reimbursable Expenses for Non-Flat Fee Services performed pursuant to a Work Authorization, subject to the following limitations:

Reimbursable Expenses	Not-to-Exceed Amount
Travel	\$ As outlined in the applicable Work Authorization.
Per Diem (meals, lodging, etc.)	\$ As outlined in the applicable Work Authorization.
Printing, reproduction, or photography	\$ As outlined in the applicable Work Authorization.
Testing costs	\$ As outlined in the applicable Work Authorization.
Fees paid to regulatory agencies	\$ As outlined in the applicable Work Authorization.
Other miscellaneous expenses	\$ As outlined in the applicable Work Authorization.

1. Transportation expenses to and from locations within Miami-Dade, Broward, and Palm Beach Counties will not be reimbursed.
2. The following administrative costs are part of overhead and will not be reimbursed:
  - a. Telephone/long distance; and
  - b. Copies (color or black & white, 11x17 or smaller).

### EXHIBIT C Minimum Insurance Requirements

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Project: Communications and Marketing Services for Transportation Surtax  
Agency: Office of Public Communications

TYPE OF INSURANCE	ADDL. INSD	SUBR. WVR	MINIMUM LIABILITY LIMITS		
				Each Occurrence	Aggregate
<b>GENERAL LIABILITY - Broad form</b> <input checked="" type="checkbox"/> Commercial General Liability <input checked="" type="checkbox"/> Premises-Operations <input type="checkbox"/> XCU Explosion/Collapse/Underground <input checked="" type="checkbox"/> Products/Completed Operations Hazard <input checked="" type="checkbox"/> Contractual Insurance <input checked="" type="checkbox"/> Broad Form Property Damage <input checked="" type="checkbox"/> Independent Contractors <input checked="" type="checkbox"/> Personal Injury Per Occurrence or Claims-Made: <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made Gen'l Aggregate Limit Applies per: <input type="checkbox"/> Project <input type="checkbox"/> Policy <input type="checkbox"/> Loc. <input type="checkbox"/> Other _____	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury Property Damage Combined Bodily Injury and Property Damage Personal Injury Products & Completed Operations	\$1,000,000	\$2,000,000
<b>AUTO LIABILITY</b> <input checked="" type="checkbox"/> Comprehensive Form <input checked="" type="checkbox"/> Owned <input checked="" type="checkbox"/> Hired <input checked="" type="checkbox"/> Non-owned <input checked="" type="checkbox"/> Any Auto, If applicable <i>Note: May be waived if no driving will be done in performance of services/project.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	Bodily Injury (each person) Bodily Injury (each accident) Property Damage Combined Bodily Injury and Property Damage	\$500,000	
<input type="checkbox"/> <b>EXCESS LIABILITY / UMBRELLA</b> Per Occurrence or Claims-Made: <input checked="" type="checkbox"/> Per Occurrence <input type="checkbox"/> Claims-Made <i>Note: May be used to supplement minimum liability coverage requirements.</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			
<input checked="" type="checkbox"/> <b>WORKER'S COMPENSATION</b> <i>Note: U.S. Longshoremen &amp; Harbor Workers' Act &amp; Jones Act is required for any activities on or about navigable water.</i>	N/A	<input checked="" type="checkbox"/>	Each Accident	STATUTORY LIMITS	
<input checked="" type="checkbox"/> <b>EMPLOYER'S LIABILITY</b>			Each Accident	\$100,000	
<input type="checkbox"/> <b>CYBER LIABILITY</b>	N/A	<input checked="" type="checkbox"/>	If claims-made form: Extended Reporting Period of: *Maximum Deductible:	2 years \$100,000	
<input checked="" type="checkbox"/> <b>PROFESSIONAL LIABILITY (ERRORS &amp; OMISSIONS) / MEDIA LIABILITY</b>	N/A	<input checked="" type="checkbox"/>	If claims-made form: Extended Reporting Period of: *Maximum Deductible:	\$1,000,000 3 years \$100,000	
Description of Operations: "Broward County" shall be listed as Certificate Holder and endorsed as an additional insured for liability, except as to Professional Liability. County shall be provided 30 days written notice of cancellation, 10 days' notice of cancellation for non-payment. Contractors insurance shall provide primary coverage and shall not require contribution from the County, self-insurance or otherwise. Any self-insured retention (SIR) higher than the amount permitted in this Agreement must be declared to and approved by County and may require proof of financial ability to meet losses. Contractor is responsible for all coverage deductibles unless otherwise specified in the agreement.					

**CERTIFICATE HOLDER:**  
  
Broward County  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301

  
 journal@broward.org  
 www.journalbroward.org  
 30180.06 11-12-14  
 0400  
 Risk Management Division

**EXHIBIT D**  
**WORK AUTHORIZATION FOR AGREEMENT \_\_\_\_\_**

Contract Number: \_\_\_\_\_

Work Authorization No. \_\_\_\_\_

This Work Authorization is between Broward County and \_\_\_\_\_ (“Contractor”) pursuant to the Agreement, executed on \_\_\_\_\_. The provisions of the Agreement govern and control over any inconsistency between this Work Authorization and the Agreement.

**Services to be provided:** [DESCRIBE IN DETAIL]

[Simple summary]

See Exhibit A for additional detail.

Agreement at issue is \_\_\_ Lump Sum/ \_\_\_ Not-to-Exceed in the amount: \$ \_\_\_\_\_

The time period for this Work Authorization will be from the date of complete execution until \_\_\_\_ (\_\_\_) days after County’s Notice to Proceed for the Services to be provided under this Work Authorization, unless otherwise extended or terminated by the Contract Administrator.

**Fee Determination:** Payment for services under this Work Authorization is as follows:

Services	\$ _____
General Services	\$ _____
Goods or Equipment	\$ _____
Total Cost of this Work Authorization	\$ _____

The foregoing amounts shall be invoiced by Contractor upon written acceptance by County of all goods and services provided under this Work Authorization.

**County**

_____		Contract Administrator	Date
Project Manager	Date	Board or Designee	Date

**Contractor**

_____	Signed	Date
Attest	Typed Name	
	Title	

**EXHIBIT E**  
**CBE/SBE Subcontractor Schedule and Letters of Intent**  
[Applicable when agreement has assigned CBE or SBE goals]

Contractor represents that the CBE or SBE participants referenced in the attached Letters of Intent have agreed by written subcontract to perform the percentage of work amounts set forth and that the following information regarding participating Subcontractors is true and correct to the best of his or her knowledge.



**EXHIBIT F**  
**Certification of Payments to Subcontractors and Suppliers**

RLI/Bid/Contract No. \_\_\_\_\_  
Project Title \_\_\_\_\_

The undersigned Contractor hereby swears under penalty of perjury that:

- Contractor has paid all Subcontractors and suppliers all undisputed contract obligations for labor, services, or materials provided on this project in accordance with the "Compensation" article of this Agreement, except as provided in paragraph 2 below.
- The following Subcontractors and suppliers have not been paid because of disputed contractual obligations; a copy of the notification sent to each, explaining in reasonably specific detail the good cause why payment has not been made, is attached to this form:

Subcontractor or supplier's name and address	Date of disputed invoice	Amount in dispute

- The undersigned is authorized to execute this Certification on behalf of Contractor.

Dated \_\_\_\_\_, 20\_\_

\_\_\_\_\_  
Contractor

By \_\_\_\_\_  
(Signature)

By \_\_\_\_\_  
(Name and Title)

STATE OF )

)

COUNTY OF )

Sworn to (or affirmed) and subscribed before this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_,  
by \_\_\_\_\_ who is personally known to me or who has produced  
\_\_\_\_\_ as identification.

\_\_\_\_\_  
Signature of Notary Public

(NOTARY SEAL)

\_\_\_\_\_  
Print, Type or Stamp Name of Notary