

**PALM BEACH COUNTY COMMUNITY SERVICES DEPARTMENT
STANDARD TERMS AND CONDITIONS
FOR RYAN WHITE FUNDED AGREEMENT**

**The County may add or modify terms and conditions at time of Agreement at the sole discretion of the County. **

RYAN WHITE FUNDED SERVICES

The AGENCY agrees to provide services to residents of Palm Beach County as set forth in the Work Plan and Unit of Service Rate and Definition. The AGENCY also agrees to provide deliverables, including reports, as specified in Ryan White Funded Agency's Programmatic Requirements article and adhere to the applicable service category definitions. No changes in the Scope of Work or services are to be conducted without the written approval of the Palm Beach County Community Services Department (the DEPARTMENT). The AGENCY receiving funds must be an agency within Palm Beach County and the AGENCY'S services, with these contracted funds, are limited to meeting the needs of Palm Beach County residents.

No part of the funding is intended to benefit any specific individual or recipient. All funding is intended for the overall benefit of all recipients of the services provided by the programs being funded herein.

ORDER OF PRECEDENCE

Conflicting provisions hereof, if any, shall prevail in the following descending order of precedence: (1) Laws passed by Congress, which are codified in provisions of the United States Code (U.S.C.) applicable to the funding source for the Agreement; (2) Rules or regulations adopted by a federal agency, which are codified in the Code of Federal Regulations (C.F.R) and applicable to the funding source for the Agreement; (3) the federal award or funding document for the Agreement; (4) the provisions of the Agreement; and (5) all other documents, if any, cited herein or incorporated herein by reference.

AVAILABILITY OF FUNDS

The obligations of the COUNTY under the Agreement for the current or any subsequent grant year are subject to the availability of funds lawfully appropriated for its purpose by the Board of County Commissioners of Palm Beach County, and received from the United States Government under the Ryan White HIV/AIDS Program.

TRUTH-IN-NEGOTIATION CERTIFICATE

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

The said rates and costs shall be adjusted to exclude any significant sums should the COUNTY determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to inaccurate representations of fees paid to outside consultants. The COUNTY shall exercise its rights under this Article within three (3) years following final payment.

AMENDMENTS TO RYAN WHITE AGENCY FUNDING LEVELS

The Agreement may be amended, or funds swept, to decrease and/or increase funds for the delivery of services depending upon the utilization and rate of expenditure of funds, changes in grant award from the federal government, or re-allocations deemed necessary by the CARE Council or the COUNTY.

AGENCY shall be subject to decrease of funds if funds are not utilized at the anticipated rate of expenditures. The anticipated rate of expenditures is determined by dividing the Agreement service amount by the months in the Agreement unless otherwise provided. An increase of over 10% of the monthly expenditure rate must be pre-approved with an authorized signature from the DEPARTMENT. The anticipated rate of expenditure will be figured on a per service basis. The formula for reduction of funds shall be as follows:

At one quarter of the service period the AGENCY shall have expended at a minimum twenty percent (20%) of its service dollars. If the minimum has not been expended ten percent (10%) of the unspent funds allocated for that service period can be swept through a budget reduction at the discretion of the COUNTY.

At one half of the service period the AGENCY shall have expended at a minimum forty percent (40%) of its service dollars. If the minimum has not been expended fifty percent (50%) of the unspent funds allocated for that service period can be swept through a budget reduction at the discretion of the COUNTY.

At three quarters of the service period the AGENCY shall have expended at a minimum seventy five percent (75%) of its service dollars. If the minimum has not been expended one hundred percent (100%) of the unspent funds allocated for that service period can be swept through a budget reduction at the discretion of the COUNTY.

AGENCY may become eligible for an increase in funding if it has spent its funds at the anticipated rate and can present a proposal for the utilization of additional funds by serving additional unduplicated clients and delivering additional units of service.

By November 1 of each year that the Agreement is in effect, the AGENCY must notify the COUNTY if it is unable to spend the balance of the Agreement and complete an Unobligated Balance Worksheet. Failure to submit this information may result in reductions in future funding.

At any time during the term of the Agreement, if the AGENCY indicates in a written notice that it will not be able to spend a portion of the contracted amount in any or all of the service categories, or sweeps are needed due to underspending as determined by the COUNTY or the Care Council, the

DEPARTMENT Director or Assistant Director is authorized to decrease the funding amount without the need for an amendment to the Agreement. The DEPARTMENT Director or Assistant Director shall provide written notice to the AGENCY of the amount of the decrease in funding. Such notice shall not be deemed a cancellation of the Agreement. All remaining terms and conditions of the Agreement shall remain in full effect throughout the term of the Agreement.

INSURANCE

Prior to execution of the Agreement by the COUNTY, the AGENCY must obtain all insurance required under this article and have such insurance approved by the COUNTY'S Risk Management Department.

- A. AGENCY shall, at its sole expense, agree to maintain in full force and effect at all times during the life of the Agreement, insurance coverages and limits (including endorsements), as described herein. AGENCY shall agree to provide the COUNTY with at least ten (10) day prior notice of any cancellation, non-renewal or material change to the insurance coverages. The requirements contained herein, as well as COUNTY'S review or acceptance of insurance maintained by AGENCY are not intended to and shall not in any manner limit or qualify the liabilities and obligations assumed by AGENCY under the Agreement.
- B. **Commercial General Liability** AGENCY shall maintain Commercial General Liability at a limit of liability not less than **\$500,000** Each Occurrence. Coverage shall not contain any endorsement excluding Contractual Liability or Cross Liability unless granted in writing by COUNTY'S Risk Management Department. AGENCY shall provide this coverage on a primary basis.
- C. **Business Automobile Liability** AGENCY shall maintain Business Automobile Liability at a limit of liability not less than **\$500,000** Each Accident for all owned, non-owned and hired automobiles. In the event AGENCY does not own any automobiles, the Business Auto Liability requirement shall be amended allowing AGENCY to agree to maintain only Hired & Non-Owned Auto Liability. This amended requirement may be satisfied by way of endorsement to the Commercial General Liability, or separate Business Auto coverage form. AGENCY shall provide this coverage on a primary basis.
- D. **Worker's Compensation Insurance & Employers Liability** AGENCY shall maintain Worker's Compensation & Employers Liability in accordance with Florida Statute Chapter 440. AGENCY shall provide this coverage on a primary basis.
- E. **Professional Liability** AGENCY shall maintain Professional Liability or equivalent Errors & Omissions Liability at a limit of liability not less than **\$1,000,000** Each Claim. When a self-insured retention (SIR) or deductible exceeds **\$10,000**, COUNTY reserves the right, but not the obligation, to review and request a copy of AGENCY'S most recent annual report or audited financial statement. For policies written on a "Claims-Made" basis, AGENCY shall maintain a Retroactive Date prior to or equal to the effective date of the Agreement. The Certificate of Insurance providing evidence of the purchase of this coverage shall clearly indicate whether coverage is provided on an "occurrence" or "claims - made" form. If coverage is provided on a

“claims - made” form the Certificate of Insurance must also clearly indicate the “retroactive date” of coverage. In the event the policy is canceled, non-renewed, switched to an Occurrence Form, retroactive date advanced, or any other event triggering the right to purchase a Supplement Extended Reporting Period (SERP) during the life of the Agreement, AGENCY shall purchase a SERP with a minimum reporting period not less than 3 years. AGENCY shall provide this coverage on a primary basis.

Additional Insured AGENCY shall endorse the COUNTY as an Additional Insured with a CG 2026 Additional Insured - Designated Person or Organization endorsement, or its equivalent, to the Commercial General Liability. The Additional Insured endorsement shall read “Palm Beach County Board of County Commissioners, a Political Subdivision of the State of Florida, its Officers, Employees and Agents.” AGENCY shall provide the Additional Insured endorsements coverage on a primary basis.

F. **Waiver of Subrogation** AGENCY hereby waives any and all rights of Subrogation against the COUNTY, its officers, employees and agents for each required policy. When required by the insurer, or should a policy condition not permit an insured to enter into a pre-loss contract to waive subrogation without an endorsement to the policy, then AGENCY shall agree to notify the insurer and request the policy be endorsed with a Waiver of Transfer of rights of Recovery Against Others, or its equivalent. This Waiver of Subrogation requirement shall not apply to any policy, which specifically prohibits such an endorsement, or which voids coverage should AGENCY enter into such a contract on a pre-loss basis.

G. **Certificate(s) of Insurance** No later than the execution of the Agreement, AGENCY shall deliver to the COUNTY’S representative, a Certificate(s) of Insurance evidencing that all types and amounts of insurance coverages required by the Agreement have been obtained and are in full force and effect. Such Certificate(s) of Insurance shall include a minimum thirty **(30)** day endeavor to notify due to cancellation or non-renewal of coverage. The certificate of insurance shall be issued to

Palm Beach County Board of Commissioners
c/o Community Services Department
810 West Datura Street
West Palm Beach, FL 33401
ATTN: Contracts Manager

H. **Umbrella or Excess Liability** If necessary, AGENCY may satisfy the minimum limits required above for Commercial General Liability, Business Auto Liability, and Employer’s Liability coverage under Umbrella or Excess Liability. The Umbrella or Excess Liability shall have an Aggregate limit not less than the highest “Each Occurrence” limit for either Commercial General Liability, Business Auto Liability, or Employer’s Liability. The COUNTY shall be specifically endorsed as an “Additional Insured” on the Umbrella or Excess Liability, unless the Certificate of Insurance notes the Umbrella or Excess Liability provides coverage on a “Follow-Form” basis.

- I. **Right to Review** COUNTY, by and through its Risk Management Department, in cooperation with the contracting/monitoring department, reserves the right to review, modify, reject or accept any required policies of insurance, including limits, coverages, or endorsements, herein from time to time throughout the term of the Agreement. COUNTY reserves the right, but not the obligation, to review and reject any insurer providing coverage because of its poor financial condition or failure to operate legally.

INDEMNIFICATION

AGENCY shall protect, defend, reimburse, indemnify, save and hold the COUNTY, its agents, employees, officers and elected officials harmless from and against any and all claims, liability, expense, loss, cost, damages or causes of action of every kind or character, including attorney's fees and costs, whether at trial or appellate levels or otherwise, arising during and as a result of their performance of the terms of the Agreement or due to the acts or omissions of AGENCY.

AGENCY will hold the COUNTY harmless and will indemnify the COUNTY for any funds that the COUNTY is obligated to refund the Federal Government based on the AGENCY'S provision of services, or failure to provide services, pursuant to the Agreement, including but not limited to, determinations of client eligibility for Ryan White HIV/AIDS Treatment Extension Act of 2009 funds. The AGENCY also agrees that funds made available pursuant to the Agreement shall not be used by the AGENCY for the purpose of initiating or pursuing litigation against the COUNTY.

SUCCESSORS AND ASSIGNS

The COUNTY and the AGENCY each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of the Agreement. Except as above, neither the COUNTY nor the AGENCY shall assign, sublet, convey or transfer its interest in the Agreement without the prior written consent of the other.

WARRANTIES AND LICENSING REQUIREMENTS

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

The AGENCY shall comply with all laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. The AGENCY is presumed to be familiar with all federal, state, and local laws, ordinances, codes and regulations that may in any way affect the services offered.

The AGENCY represents and warrants that it is governed by a Board, or other appropriate body, whose members have no monetary conflict of interest. Further, the members must also serve the AGENCY

without compensation, and the composition of the governing body must reasonably reflect Palm Beach County and/or client demographics.

The AGENCY shall comply with all legal criminal history record check regulations required for the population they serve. AGENCY will have and comply with policy that requires them to conduct a Level 1 or Level 2 Criminal Background Check as appropriate on applicants and volunteers being considered for positions that will provide services or will be around children, the elderly and other vulnerable adult populations, prior to start date. AGENCY may hire employees prior to obtaining the Level 2 background check results, the employees are only permitted to attend training and orientation during this period while they are waiting for their background check results. They are not allowed to have any contact with the clients during this period. Live Scan Screening proof must be provided that shows the scan was completed prior to an employee's start date. All criminal background checks shall be done at the expense of the AGENCY.

PERSONNEL

The AGENCY warrants that all services shall be performed by skilled and competent personnel to the highest professional standards in the field. Any changes or substitutions in the AGENCY'S key personnel, or any personnel turnover which could adversely impact the AGENCY'S ability to provide services as may be listed herein must be made known to the COUNTY'S representative within five (5) working days of the change. AGENCY shall establish and consistently utilize an allocation methodology for personnel costs for program activities supported by multiple sources.

All of the services required herein under shall be performed by the AGENCY or under its supervision. The AGENCY further represents that it has, or will secure at its own expense, all necessary personnel required to perform the services under the Agreement, and that they shall be fully qualified and, if required, authorized, permitted, and/or licensed under State and local law to perform such services. Such personnel shall not be employees of or have any contractual relationship with the COUNTY.

All of the AGENCY'S personnel (and all Sub-contractors), while on COUNTY premises, will comply with all COUNTY requirements governing conduct, safety and security.

SUB-CONTRACTING

The COUNTY reserves the right to accept the use of a sub-contractor, or to reject the selection of a particular sub-contractor, and to inspect all facilities of any sub-contractors in order to make a determination as to the capability of the sub-contractor to perform properly under the Agreement.

If a sub-contractor fails to perform or make progress, as required by the Agreement, and it is necessary to replace the sub-contractor to complete the work in a timely fashion, the AGENCY shall promptly do so, subject to acceptance of the new sub-contractor by the COUNTY.

NONDISCRIMINATION

The COUNTY is committed to assuring equal opportunity in the award of contracts and complies with all laws prohibiting discrimination. Pursuant to Palm Beach County Resolution R2017-1770, as may be amended, the AGENCY warrants and represents that throughout the term of the Agreement, including any renewals thereof, if applicable, all of its employees are treated equally during employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, familial status, sexual orientation, gender identity or expression, or genetic information. Failure to meet this requirement shall be considered default of the Agreement.

As a condition of entering into the Agreement, the AGENCY represents and warrants that it will comply with the COUNTY'S Commercial Nondiscrimination Policy as described in Resolution 2017-1770, as amended. As part of such compliance, the AGENCY shall not discriminate on the basis of race, color, national origin, religion, ancestry, sex, age, marital status, familial status, sexual orientation, gender identity or expression, disability, or genetic information in the solicitation, selection, hiring or commercial treatment of sub-contractors, vendors, suppliers, or commercial customers, nor shall the AGENCY retaliate against any person for reporting instances of such discrimination. The AGENCY shall provide equal opportunity for sub-contractors, vendors and suppliers to participate in all of its public sector and private sector sub-contracting and supply opportunities, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that have occurred or are occurring in the COUNTY'S relevant marketplace in Palm Beach County.

AGENCY shall comply with all applicable Federal statutes relating to nondiscrimination. These include but are not limited to: (a) 42 U.S.C. § 2000d et seq., Title VI, Civil Rights Act of 1964 which prohibits discrimination on the basis of race, color or national origin; (b) 20 U.S.C. § 1681 et seq., Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex; (c) 29 U.S.C. § 701 et seq., Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination on the basis of disability; (d) 42 U.S.C. § 6101 et seq., the Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; (e) Public Law 92-255, the Drug Abuse Office and Treatment Act of 1972, as amended, relating to nondiscrimination on the basis of drug abuse; (f) Public Law 91-616, the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) 42 U.S.C. § 201 et seq., the Public Health Service Act of 1912, as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) 42 U.S.C. § 3601 et seq., Title VIII of the Civil Rights Act of 1968, as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the statute(s) under which the Agreement that uses Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the Agreement. Vendor shall comply with the Drug Free Workforce Act of 1988.

The AGENCY understands and agrees that a material violation of this clause shall be considered a material breach of the Agreement and may result in termination of the Agreement, disqualification or debarment of the company from participating in COUNTY contracts, or other sanctions. This clause is not enforceable by or for the benefit of, and creates no obligation to, any third party. AGENCY shall include this language in its sub-contracts.

REMEDIES

The Agreement shall be governed by the laws of the State of Florida. Any legal action necessary to enforce the Agreement will be held in a court of competent jurisdiction located in Palm Beach County, Florida. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

No provision of the Agreement is intended to, or shall be construed to, create any third party beneficiary or to provide any rights to any person or entity not a party to the Agreement, including but not limited to any citizen or employees of the COUNTY and/or AGENCY.

CONTRACTING WITH SMALL AND MINORITY BUSINESSES, WOMEN'S BUSINESS ENTERPRISES, AND LABOR SURPLUS AREA FIRMS:

- A. The COUNTY has made all necessary affirmative steps to assure that small and minority businesses, women's business enterprises, and labor surplus area firms are used when possible. The AGENCY, if prime sub-contracts are to be let, shall take the Affirmative Steps listed below in paragraphs 1) through 5) of this Article.

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

HIRING OF MECHANICS OR LABORERS

For those solicitations and contracts including the employment of mechanics or laborers, the Agreement must provide for compliance with 40 U.S.C § 3702, as supplemented by Department of Labor regulations (29 C.F.R. 5). Specifically, AGENCY shall be required to compute the wages of every mechanic and laborer based on a standard work week of 40 hours. Work in excess of the standard

work week is permissible provided that the worker is compensated at a rate of not less than one and a half (1½) times the basic rate of pay for all hours worked in excess of 40 hours in the work week.

RYAN WHITE FUNDED AGENCY'S PROGRAMMATIC REQUIREMENTS

Failure to provide this information in a timely fashion and in the format required will constitute a material breach of the Agreement and may result in termination of the Agreement.

In addition to its other obligations hereunder, the AGENCY agrees to comply with the following:

1. To allow COUNTY through the DEPARTMENT to monitor AGENCY to assure that its goals and conduct as outlined in the Implementation Plan are adhered to. Non-compliance may impact future contract awards and/or funding level.
2. To maintain service records reflecting and documenting all client encounters, services, treatment or action plans, and client level data including, but not limited to, the following: unduplicated client identifier, sex, age, race, ethnicity, HIV transmission risk factors, indicators of service needs, and zip code of residence.
3. To allow COUNTY access to Part A service records for the purpose of contract monitoring of AGENCY service goals, quality improvement initiatives, and other program requirements.
4. To maintain client records containing documentation of RWHAP eligibility every six (6) months, including screening for other public or private payor sources.
5. To maintain books, records, documents, and other evidence which sufficiently and properly reflects all costs and provisions of services to individuals of any nature expended in the performance of the Agreement for a period of not less than seven (7) years.
6. To comply with Federal and COUNTY needs assessment and Ryan White Service Report (RSR) requirements (basic computer equipment needed).
7. The AGENCY must maintain separate financial records for Ryan White HIV/AIDS Treatment Extension Act of 2009 funds and account for all receipts and expenditures, including direct and indirect cost allocations and in accordance with Generally Accepted Accounting Principles (GAAP), by individual service categories, and by administration and program costs. RWHAP fund cost allocations are to be completed and posted by service category, delineating direct service and administrative costs, to the general ledger on a monthly basis.
8. That the COUNTY shall be promptly reimbursed by the AGENCY for any funds that are misused, misspent, unspent, or are for any reason deemed by the COUNTY to have been

spent on ineligible expenses by the AGENCY. This will be calculated by actual cost per unit as determined by the COUNTY at the time of the monthly reimbursement or annual fiscal monitoring.

9. AGENCY must submit any and all reports to the COUNTY for each individual service as requested.

All reports are subject to on-site verification and audit of AGENCY'S records. Copies of the required forms will be supplied to the AGENCY. Failure to provide this information in a timely fashion and in the format required shall deem AGENCY in non-compliance with this covenant and, at the option of the COUNTY, AGENCY will forfeit its claim to any reimbursement for that service or the COUNTY may invoke the termination provision in the Agreement.

10. AGENCY must comply with Part A, Ryan White HIV/AIDS Treatment Extension Act of 2009 and applicable Federal, State and local statutes, as may be amended. Non-compliance may impact future contract awards and/or funding level. Compliance includes, but is not limited to:

- a. Clients receiving RWHAP Part A services must have documentation of eligibility, including: proof of HIV serostatus, proof of residence, income, and identification of other payer sources, as outlined in the Palm Beach County RWHAP Part A manual;
- b. If the AGENCY receiving RWHAP Part A funds charges for services, it must do so on a sliding fee schedule that is available to the public. Individual, annual aggregate charges to clients receiving Part A services must conform to statutory limitations;
- c. The AGENCY must participate in a community-based Coordinated Services Network. A Coordinated Services Network is defined as: A collaborative group of organizations that provide medical and support services to persons living with HIV in order improve health outcomes and reduce health disparities. The concept of a Coordinated Services Network suggests that services must be organized to respond to the individual or family's changing needs in a holistic, coordinated, timely, and uninterrupted manner that reduces fragmentation of care between service providers;
- d. The AGENCY must comply with Palm Beach County's Minimum Eligibility Criteria for HIV/AIDS Services, as approved by the HIV/AIDS CARE Council;
- e. The AGENCY must comply with the Palm Beach County RWHAP Part A Service Standards of Care, as adopted by the HIV/AIDS CARE Council; and
- f. The AGENCY must establish and maintain a Quality Management program to plan, assess, and improve health outcomes through implementation of quality improvement processes. AGENCY must have

at least 1 quality improvement project in-process at any time during the Agreement period. AGENCY must also participate in System of Care-level Quality Management activities initiated by the DEPARTMENT and the Palm Beach County HIV CARE Council to assess the effectiveness and quality of services delivered through Ryan White HIV/AIDS Treatment Extension Act of 2009 funding. **AGENCY must track outcomes for each client by, but not limited to:**

- 1. Linkage to Care, Retention in Care, Prescribed Antiretroviral Therapy, and Viral Suppression data.**
- 2. Documenting of CD4 and viral load lab results, according to HHS Clinical Guidelines for the Treatment of HIV/AIDS and Palm Beach County RWHAP Part A service standards.**
- 3. Other data requested by the DEPARTMENT as part of system-wide quality improvement projects**

All AGENCIES are expected to identify problems in service delivery that impact health-status outcomes at the client and system levels. Corrective actions, if required, should be initiated by the AGENCY and coordinated with the COUNTY and its Quality Management Program. All AGENCIES and AGENCIES' RWHAP Part A vendors are expected to participate in quality assurance, evaluation activities, and initiatives to improve jurisdictional outcomes.

11. AGENCY must ensure that funds received under the Agreement shall be as the payer of last resort and must be able to provide supporting documentation that all other available funding resources were utilized prior to requesting funds under the Agreement.
12. AGENCY must not expend RWHAP funds received pursuant to the Agreement with any for-profit entity if there is a not-for-profit entity available to provide quality service. Expenditure with a for-profit entity will require documentation that there were no not-for-profit entities available to provide quality service.
13. AGENCY must submit an Annual Audit by an Independent Certified Public Accountant completed within nine (9) months after the end of the AGENCY'S fiscal year, in accordance with Federal requirements and showing RWHAP Part A funds separately.
14. AGENCY must comply with the Health Insurance Portability Accountability Act of 1996 (HIPAA).
15. AGENCY agrees to the sharing data within the Ryan White Part A client database, per the signed authorization provided by clients, on an as needed basis with current or future Coordinated Service Network providers.

16. AGENCY must attend all meetings, as required by COUNTY staff and other funded agencies, to develop respective programs as well as work to develop a comprehensive approach to HIV/AIDS care.
17. AGENCY must comply with the Health Resources Services Administration (HRSA) Monitoring Standards, as posted on the RWHAP Recipient Resources website at <http://hab.hrsa.gov/manageyourgrant/granteebasics.html>. The standards are subject to change periodically.
18. Funds provided to AGENCY, pursuant to the Agreement, shall not be used to do any of the following:
 - a. Make payments for any item or service to the extent that payment has been made or can reasonably be expected to be made by a third party payer, with respect to that item or service:
 1. Under any state compensation program, insurance policy, or any Federal or State health benefits program or;
 2. By an entity that provides health services on a prepaid basis.
 - b. Purchase or improve land, or to purchase, construct or make permanent improvements to any building.
19. AGENCY must develop and maintain a current and complete asset inventory list and depreciation schedule for assets purchased directly with RWHAP Part A funds.
20. AGENCY must have policies in place to monitor any sub-contractor providing services on behalf of the AGENCY that is paid with RWHAP Part A funds. Sub-contracts shall be documented between an AGENCY and sub-contractor with a signed agreement detailing the services to be rendered, length of agreement, and payment amounts.
21. Administrative costs, inclusive of direct and indirect costs, shall not exceed 10% of the contracted amount of the Agreement, as per Ryan White grant guidelines.
 - A. AGENCY is permitted to apply a 10% de Minimis indirect cost rate on a base of modified total direct costs, per 45 CFR §75.414(f).
22. Disclosure of Incidents:

AGENCY shall inform Recipient by secured email of all unusual incidents within four (4) to eight (8) hours of the occurrence of the incidents, and follow up with the Ryan White Notification Form within twenty-four (24) hours of the occurrence. This includes incidents occurring in or out of the facilities or on approved trips away from the facility. An unusual incident is defined as any alleged, suspected, or actual occurrence of an incident that adversely affects the health, safety, or welfare of RWHAP clients or any other AGENCY clients. All of the incidents require that immediate action is taken to

protect RWHAP clients from harm, that an investigation is conducted to determine the cause of the incident and contributing factors, and that a prevention plan is developed to reduce the likelihood of further occurrences. Examples include, but are not limited to, physical, verbal, or sexual abuse.

The AGENCY shall inform Recipient by telephone of all unusual incidents that involved any RWHAP clients or other AGENCY clients, who are minors within two (2) to four (4) hours of the occurrence of the incidents and follow up with the Ryan White Notification Form within twenty-four (24) hours of the incident. This includes incidents occurring in or out of the facilities or on approved trips away from the facility. A written report must follow within 24 hours of the incidents. An unusual incident is defined as any alleged, suspected, or actual occurrence of an incident that adversely affects the health, safety, or welfare of the RWHAP minor clients or other AGENCY minor clients. All of the incidents require that immediate action is taken to protect RWHAP clients from harm, that an investigation is conducted to determine the cause of the incident and contributing factors, and that a prevention plan is developed to reduce the likelihood of further occurrences. Examples include but are not limited to physical, verbal or sexual abuse.

AGENCY shall inform Recipient of all incidents that are newsworthy including, but not limited to, incidents that may portray the AGENCY in a negative manner (service delivery, safety and/or fiscal) or allegations of neglect, physical, mental or sexual abuse of a client by an AGENCY staff or investigations by another entity.

AGENCY shall notify Recipient through the Ryan White Incident Notification Process and follow up with the Ryan White Notification Form within fourteen (14) business days of the following:

- Resignation/Termination of CEO, President and/or CFO.
- Resignation/Termination of Key RWHAP-funded staff.
- RWHAP Part A-funded staff vacancy position over 30 days.
- Loss of funding from another funder that could impact service delivery.
- New credit lines established with creditors, or any other new debt incurred (including loans taken out on mortgages).
- Inability to have three (3) months cash flow on hand.
- Temporary interruption of services delivery due to emergency, natural or unnatural disaster.
- Other incidents impacting the effectiveness of the AGENCY that may occur unexpectedly and are not covered above.

23. AGENCY must sign and submit the following:

- a. Certificates (Regarding Debarment and Suspension, Drug-Free Workplace,

Lobbying, Program Fraud Civil Remedies Act, and Environmental Tobacco Smoke)

- b. Assurance – Non Construction Programs
 - c. Assurance of Compliance
 - d. Cash Flow Statement
24. AGENCY must complete the Provide Enterprise Add/Delete Request Form in the Provide Enterprise System three (3) business days after a user has been hired by or separated employment from the AGENCY.
25. AGENCY must use CPT (Current Procedural Terminology) and CDT (Current Dental Terminology) Codes in each reimbursement submittal for Oral Health, Specialty Medical Care Services and Ambulatory Outpatient Medical Care Services.
26. AGENCY Engagement

The DEPARTMENT and COUNTY relies on all agencies to help ensure that our community recognizes the importance of the work we do together. Palm Beach County residents should know about the specific work covered in the Agreement, and also know about the DEPARTMENT: who it is, its role in funding, how it works, and what they – the taxpayers – are funding.

The names and logos of the AGENCY or program funded under the Agreement and the DEPARTMENT and COUNTY are to be displayed in all communications, educational and outreach materials. The DEPARTMENT is to be identified as the funder, or one of the funders if there are more than one. The two (2) logos approved are below:



Specific Activities – Mandatory:

- When AGENCY describes the DEPARTMENT in written material (including new releases), use the language provided below and available on the DEPARTMENT'S website <http://discover.pbcgov.org/communityservices/Pages/default.aspx>

To promote independence and enhance the quality of life in Palm Beach County by providing effective and essential services to residents in need.

- Display DEPARTMENT and COUNTY logo, according to the guidelines found on the DEPARTMENT’S website <http://discover.pbcgov.org/communityservices/Pages/Publications.aspx> on any printed promotional material paid for using DEPARTMENT and COUNTY funds, including stationery, brochures, flyers, posters, etc., describing or referring to a program or service funded by the DEPARTMENT and COUNTY.

Specific Activities – Recommended:

- Identify the DEPARTMENT and COUNTY as a funder in media interviews when possible, and
 - Notify the DEPARTMENT staff of any news release or media interview relating to the Agreement or the program funded under the Agreement so the coverage can be promoted using appropriate media channels, and
 - Place signage/LOGO in AGENCY’S main office/lobby and all additional work/service sites visible to the public, identifying the DEPARTMENT and COUNTY as a funder, and
 - Display the DEPARTMENT and COUNTY logo according to this posted guideline, also found on the DEPARTMENT’S website noted above, on AGENCY’S website with a hyperlink to the DEPARTMENT and COUNTY website, located at <http://discover.pbcgov.org/communityservices/Pages/default.aspx>, and
 - Display the DEPARTMENT logo on signs and banners at events open to the public (excluding fundraising events) promoting funded programs that AGENCY sponsors or participates in.
27. AGENCY agrees to comply with all provisions of 45 CFR 75 and 2 CFR 200.
 28. AGENCY agrees to designate an individual or individuals to fully participate in the Palm Beach County HIV Care Council’s Planning Committee, and Quality Management and Evaluation Committee.
 29. AGENCY agrees to participate in the annual needs assessment processes to provide information that will lead to improvements in the Coordinated Service Network.
 30. AGENCY agrees to review monthly expenditure and service utilization reports to document progress toward implementation of the RWHAP goals and objective requirements.
 31. AGENCY is expected to maintain documentation of the following which shall be made available to the Recipient and HRSA upon request and during RWHAP Part A site visits:
 - a. Document, through job descriptions and time and effort reports, that the administrative activities are charged to administration of the activities under the

- Agreement and cost no more than 10% of the total grant amount.
- b. Document that no activities defined as administrative in nature are included in other RWHAP Part A budget categories.
 - c. If using indirect cost as part or all of its 10% administration costs, obtain and keep on file a federally approved HHS-negotiated Certificate of Cost Allocation Plan or Certificate of Indirect Costs.
 - d. Written procedures, allocation journals, and/or manuals shall explain the methodology used to allocate and track RWHAP Part A costs, including direct service costs and administrative costs. The allocation journal shall contain written procedures that are easy to follow and can be “re-performed” by an auditor.
32. AGENCY agrees to assign appropriate staff, including the identified programmatic and fiscal designees, to attend all RWHAP Part A providers' meetings.
 33. In lieu of Agreement termination, the COUNTY may withhold the payment of reimbursement requests until provisions or stipulations in question are cured to the COUNTY'S satisfaction.
 34. AGENCY agrees to have in place a grievance process by which client complaints against the AGENCY with respect to RWHAP Part A-funded services might be addressed. A copy of the AGENCY grievance policy and procedures must be provided during annual site visits or upon request by the COUNTY.
 35. AGENCY agrees to provide notification of AGENCY grievance procedures to all clients for rendered services, in accordance with the Agreement, and such provision of information shall be documented within AGENCY files.
 36. AGENCY shall provide a summary of any complaint filed under AGENCY grievance process as well as current status of, and final disposition of, any such complaint during annual site visits or upon request by the COUNTY.
 37. AGENCY agrees to comply with federal and state laws, and rules and regulations of COUNTY policies relative to nondiscrimination in client and client service practices because of political affiliation, religion, race, color, gender, handicap, age, sexual orientation, national origin, or disability. AGENCY shall notify current clients and all other individuals presenting for services provided through RWHAP Part A funds of this nondiscrimination policy.
 38. AGENCY shall integrate the principles and activities of culturally and linguistically appropriate services in accordance with National Standards for Culturally and Linguistically Appropriate Services (National CLAS Standards) in Health and Health Care Report. The National CLAS Standards are intended to advance health equity, improve quality, and help eliminate health care disparities by providing a blueprint for individuals

and health and health care organizations to implement culturally and linguistically appropriate services. Refer to:

<http://minorityhealth.hhs.gov/assets/pdf/checked/finalreport.pdf>

39. AGENCY shall be responsible for the accuracy of its work and shall promptly correct its errors and omissions without additional compensation. Acceptance of the work by the COUNTY will not relieve AGENCY of the responsibility of subsequent corrections of any errors and the clarification of any ambiguities. AGENCY shall prepare any plans, report, fieldwork, or data required by COUNTY to correct its errors or omissions. The above consultation, clarification or correction shall be made without added compensation to AGENCY. AGENCY shall give immediate attention to these changes so there will be a minimum of delay.
40. AGENCY agrees to participate in site visits/programmatic reviews conducted by the COUNTY. AGENCY agrees to ensure that programmatic and fiscal designees and other appropriate staff, as requested by the COUNTY, are in attendance at all site visits and that all requested documentation is provided, including descriptions of accounts payable systems and policies. Unannounced site visits may also be conducted by the COUNTY when the COUNTY deems appropriate. AGENCY must provide access to appropriate and applicable files, policy manuals, records, staff members, etc., as requested by the COUNTY.
41. Articles, papers, bulletins, reports, or other materials reporting the plans, progress, analyses, or results and findings of the work conducted under the Agreement shall not be presented publicly or published without prior approval in writing of COUNTY. It is further agreed that if any information concerning the work conducted under the Agreement, its conduct results, or data gathered or processed should be released by AGENCY without prior approval from COUNTY, the release of the same shall constitute grounds for termination of the Agreement without indemnity to AGENCY. Should any such information be released by COUNTY or by AGENCY with such prior written approval, the same shall be regarded as public information and no longer subject to the restrictions of the Agreement.
42. Income generated from third-party reimbursements must be reported as program income and must be directed to programs or services that benefit RWHAP Part A clients. AGENCY must maintain records documenting the type and amount of income received and how it was expended.
43. Income generated from payments made by clients in compliance with the sliding fee scale must be reported as program income and must be directed to programs or services that benefit RWHAP Part A clients. AGENCY must maintain records documenting the type and amount of income received and how expended.
44. AGENCY must submit documentation to demonstrate expenditure of available program

income prior to requesting reimbursement from the COUNTY, as stated in 45 CFR § 75.305(b)(5). Failure to submit this documentation will prevent the COUNTY from providing reimbursement until requirement is satisfied.

45. Agencies must read and comply with all HRSA Policy Clarification Notices (PCNs) and Guidance, including, but not limited to:
 - PCN 18-01 to vigorously pursue enrollment into health care coverage for which their clients may be eligible (e.g., Medicaid, Children’s Health Insurance Program (CHIP), Medicare, state-funded HIV programs, employer-sponsored health insurance coverage, and/or other private health insurance) in order to maximize finite Ryan White HIV/AIDS Program (RWHAP) grant resources.
 - PCN 16-02 Eligible Individuals & Allowable Uses of Funds for Discretely Defined Categories of Services regarding eligible individuals and the description of allowable service categories for Ryan White HIV/AIDS Program and program guidance for implementation.
 - PCN 15-02 RWHAP expectations for clinical quality management (CQM) programs.
 - PCN 16-01 RWHAP recipients may not deny the delivery of RWHAP services, including prescription drugs, to a veteran who is eligible to receive RWHAP services. RWHAP recipients and sub-recipients may not deny services, including prescription drugs, to a veteran who is eligible to receive RWHAP services.
46. AGENCY must have a system in place to document time and effort for direct program staff supported by RWHAP Part A funds and must submit a written time and effort reporting policy to the COUNTY. The policy must adhere to 45 CFR 75.430. Time and effort reporting will be monitored periodically by the COUNTY.
47. AGENCY must ensure it tracks expenditure data through this award for services provided for women, infants, children and youth (WICY) living with HIV/AIDS. Expenditure data for each grant period (March 1-February 28) must be tracked separately for each WICY priority population, and reported annually to Recipient no later than April 30.
48. AGENCIES that purchase, are reimbursed, or provide reimbursement to other entities for outpatient prescription drugs are expected to secure the best prices available for such products and to maximize results for the AGENCY and its patients. Eligible health care organizations/covered entities that enroll in the 340B Program must comply with all 340B Program requirements and will be subject to audit regarding 340B Program compliance. 340B Program requirements, including eligibility, can be found on the HRSA 340B Drug Pricing Program website at www.hrsa.gov/opa/. Funds awarded for pharmaceuticals must only be spent to assist clients who have been determined not eligible for other pharmaceutical programs, especially the AIDS Drug Assistance Program (ADAP) and/or for drugs that are not on the State ADAP or Medicaid formulary.

49. Agencies that are providers of services available in the Medicaid State Plan must enter into a participation agreement under the State Plan and be qualified to receive payments under such plan, or receive a waiver from this requirement.
50. Other requirements are included in Sub-Award Data, Certification Regarding Lobbying Byrd Anti-Lobbying Amendment and Certification Debarment and Suspension. AGENCY must comply with these exhibits.
51. To submit quarterly the Cash Flow Commitment Statement along with the following financial statements:
 - a. Statement of Cash Flows
 - b. Statement of Activities
 - c. Statement of Financial Position
52. AGENCIES that employ 15 or more people are expected to comply with Title VI, which states that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.
53. AGENCY shall provide staff with the appropriate training according to staff qualifications in the follow areas and as required by the COUNTY:
 - Racial Equity
 - Lesbian, Gay, Bi-Sexual, Transgender, Questioning (LGBTQ) Cultural Competency
 - Trauma-Informed Care (TIC), Adverse Childhood Experiences (ACEs), Motivational Interviewing (MI)
 - Cultural Humility
54. AGENCIES with utilization variances of twenty percent (20%) higher or lower than numbers reported on the implementation plans, when compared to final utilization report for each service category, shall submit written justification for the variance at the time the reports are submitted.

ACCESS AND AUDITS

The AGENCY shall maintain adequate records to justify all charges, expenses, and costs incurred in estimating and performing the work for at least seven (7) years after completion of the Agreement, or until resolution of any audit findings and/or recommendations. The COUNTY shall have access to such books, records, and documents as required in this section for the purpose of inspection or audit during normal business hours, at the AGENCY'S place of business.

The AGENCY will provide a final close out report and Financial Reconciliation Statement, accounting for all funds expended hereunder no later than 30 days from the Agreement end date.

The AGENCY shall provide the COUNTY with an annual financial audit report that meets the requirements of sections 11.45 and 216.349, Florida Statutes, and Chapter 10.550 and 10.600, Rules of the Auditor General, and, to the extent applicable, the Single Audit Act of 1984, 31 U.S.C. ss. 7501-7507, OMB Circulars A-128 or A-133 for the purposes of auditing and monitoring the funds awarded under the Agreement.

- a. The annual financial audit report shall include all management letters and the AGENCY'S response to all findings, including corrective actions to be taken.
- b. The annual financial audit report shall include a schedule of financial assistance specifically identifying all contracts and grant revenue by sponsoring agency and contract/grant number.
- c. The complete financial audit report, including all items specified herein, shall be sent directly to:

Fiscal Manager
Palm Beach County Community Services Department
810 Datura Street
West Palm Beach, Florida 33401

Electronic submission via email is acceptable. Please submit audit reports to the Fiscal Manager and Financial Analyst at teaton@pbcgov.org.

- d. The AGENCY shall have all audits completed by an independent certified public accountant (IPA) who shall either be a certified public accountant or a public accountant licensed under Chapter 473, Florida Statutes. The IPA shall state that the audit complied with the applicable provisions noted above.
- e. The audit is due within (9) months after the end of the AGENCY'S fiscal year.
- f. AGENCY is required to provide COUNTY with a copy of all grant audits and monitoring reports by other funding entities.
- g. AGENCY shall establish policies and procedures and provide a statement, noting that the accounting system or systems established by the AGENCY, have appropriate internal controls, verifying the accuracy and reliability of accounting data, and promoting operating efficiency.

CONFLICT OF INTEREST

The AGENCY represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of services required hereunder, as provided for in Chapter 112, Part III, Florida Statutes and Palm Beach County Code of Ethics. The AGENCY further represents that no person having any such conflict of interest shall be employed for said performance of services.

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

DRUG-FREE WORKPLACE

The AGENCY shall implement and maintain a drug-free workplace program of at least the following items:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the AGENCY'S policy of maintaining a drug-free workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the services that are under Agreement a copy of the statement specified in Item Number 1 above.
4. In the statement specified in Item Number 1 above, notify the employees that, as a condition of providing the services that are under Agreement, the employee will abide by the terms of the statement and will notify the AGENCY of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893, Florida Statutes, or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction or plea.

5. Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, for any employee who is so convicted or so pleads.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of Section 287.087, Florida Statutes.

AMERICANS WITH DISABILITIES (ADA)

The AGENCY shall meet all the requirements of the Americans With Disabilities Act (ADA), which shall include, but not be limited to, posting a notice informing service recipients and employees that they can file any complaints of ADA violations directly with the Equal Employment Opportunity Commission (EEOC), One Northeast First Street, Sixth Floor, Miami, Florida 33132.

INDEPENDENT CONTRACTOR RELATIONSHIP

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

The AGENCY does not have the power or authority to bind the COUNTY in any promise, contract or representation other than specifically provided for in the Agreement.

CONTINGENT FEES

The AGENCY warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the AGENCY to solicit or secure the Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the AGENCY, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of the Agreement.

PUBLIC ENTITY CRIMES

As provided in sections. 287.132-133, Florida Statutes, by entering into the Agreement or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, sub-contractors and consultants who will perform hereunder, have not been placed on the convicted vendor list maintained by the State of Florida Department of Management Services within the 36 months immediately preceding the date hereof. This notice is required by sections 287.133(3)(a), Florida Statutes.

EXCUSABLE DELAYS

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

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

ARREARS

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

DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The AGENCY shall deliver to the COUNTY'S representative for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the COUNTY under the Agreement.

The AGENCY agrees that copies of any and all property, work product, documentation, reports, computer systems and software, schedules, graphs, outlines, books, manuals, logs, files, deliverables, photographs, videos, tape recordings or data relating to the Agreement which have been created as a part of the AGENCY'S services or authorized by the COUNTY as a reimbursable expense, whether generated directly by the AGENCY, or by or in conjunction or consultation with any other party whether or not a party to the Agreement, whether or not in privity of Agreement with the COUNTY or the AGENCY, and wherever located shall be the property of the COUNTY.

To the extent allowed by Chapter 119, Florida Statutes, all written and oral information not in the public domain or not previously known, and all information and data obtained, developed, or supplied by the COUNTY or at its expense will be kept confidential by the AGENCY and will not be disclosed to any other party, directly or indirectly, without the COUNTY'S prior written consent unless required by a lawful court order. All drawings, maps, sketches, programs, data base, reports and other data developed, or purchased, under the Agreement for or at the COUNTY'S expense shall be and remain the COUNTY'S property and may be reproduced and reused at the discretion of the COUNTY.

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to

disclosure or ownership of documents, shall survive the execution and delivery of the Agreement and the consummation of the transactions contemplated hereby.

Notwithstanding any other provision in the Agreement, all documents, records, reports and any other materials produced hereunder shall be subject to disclosure, inspection and audit, pursuant to the Palm Beach County Office of the Inspector General Palm Beach County Code 2-421 through 2-440, as may be amended.

TERMINATION

The Agreement may be terminated by the AGENCY upon sixty (60) days' prior written notice to the COUNTY in the event of substantial failure by the COUNTY to perform in accordance with the terms of the Agreement through no fault of the AGENCY. It may also be terminated, in whole or in part, by the COUNTY, with cause upon five (5) business days' written notice to the AGENCY or without cause upon ten (10) business days' written notice to the AGENCY. Unless the AGENCY is in breach of the Agreement, the AGENCY shall be paid for services rendered to the COUNTY'S satisfaction through the date of termination. After receipt of a Termination Notice, except as otherwise directed by the COUNTY, in writing, the AGENCY shall:

- Stop work on the date and to the extent specified.
- Terminate and settle all orders and sub-contracts relating to the performance of the terminated work.
- Transfer all work in process, completed work, and other materials related to the terminated work to the COUNTY.
- Continue and complete all parts of the work that have not been terminated.

In the event the grant to the COUNTY under the Ryan White HIV/AIDS Program is suspended or terminated, the Agreement shall be immediately terminated effective on the date the federal Ryan White HIV/AIDS Program notifies the COUNTY of the suspension or termination.

SEVERABILITY

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

MODIFICATIONS OF WORK

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

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

If the COUNTY elects to make the change, the COUNTY shall initiate an Amendment to the Agreement and the AGENCY shall not commence work on any such change until such written amendment is signed by the AGENCY and approved and executed on behalf of Palm Beach County.

NOTICES

All notices required in the Agreement shall be sent by Certified Mail, Return Receipt Requested, hand delivery or other delivery service requiring signed acceptance, and if sent to the COUNTY shall be mailed to:

Taruna Malhotra, Assistant Department Manager
Palm Beach County Community Services Department
810 Datura Street
West Palm Beach, FL 33401

and if sent to the AGENCY, shall be mailed to:

<<NAME & TITLE OF AGENCY CONTACT>>
<<AGENCY>>
<<ADDRESS>>
<<CITY, STATE ZIP>>

STANDARDS OF CONDUCT FOR EMPLOYEES

The AGENCY must establish safeguards to prevent employees, consultants, or members of governing bodies from using their positions for purposes that are, or give the appearance of being, motivated by a desire for private financial gain for themselves or others such as those with whom they have family, business, or other ties. Therefore, each institution receiving financial support must have written policy guidelines on conflict of interest and the avoidance thereof. These guidelines should reflect State and local laws and must cover financial interests, gifts, gratuities and favors, nepotism, and other areas such as political participation and bribery. These rules must also indicate the conditions under which outside activities, relationships, or financial interest are proper or improper, and provide for notification of these kinds of activities, relationships, or financial interests to a responsible and

objective institution official. For the requirements of code of conduct applicable to procurement under grants, see the procurement standards prescribed by 45 CFR Part 74, Subpart P and 45 CFR Part 92.36.

The rules of conduct must contain a provision for prompt notification of violations to a responsible and objective AGENCY official and must specify the type of administrative action that may be taken against an individual for violations. Administrative actions, which would be in addition to any legal penalty(ies), may include oral admonishment, written reprimand, reassignment, demotion, suspension, or separation. Suspension or separation of a key official must be reported promptly to the COUNTY.

The AGENCY shall provide a copy of the rules of conduct to each officer, employee, board member, and sub-agency that is working on the grant supported project or activity and the rules must be enforced to the extent permissible under State and local law or to the extent to which the COUNTY determines it has legal and practical enforcement capacity.

The rules need not be formally submitted to and approved by the COUNTY; however, they must be made available for a review upon request, for example, during a site visit.

SCRUTINIZED COMPANIES

- A. As provided in sections 287.135, Florida Statutes, by entering into the Agreement or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, sub-contractors and consultants who will perform hereunder, have not been placed on the Scrutinized Companies that boycott Israel List, or is engaged in a boycott of Israel, pursuant to sections 215.4725, Florida Statutes. Pursuant to sections 287.135(3)(b), Florida Statutes, if AGENCY is found to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel, the Agreement may be terminated at the option of the COUNTY.

- B. **When contract value is greater than \$1 million:** As provided in sections 287.135, Florida Statutes, by entering into the Agreement or performing any work in furtherance hereof, the AGENCY certifies that it, its affiliates, suppliers, and sub-agencies who will perform hereunder, have not been placed on the Scrutinized Companies With Activities in Sudan List or Scrutinized Companies With Activities in The Iran Petroleum Energy Sector List created pursuant to sections 215.473, Florida Statutes or is engaged in business operations in Cuba or Syria.

If the COUNTY determines, using credible information available to the public, that a false certification has been submitted by AGENCY, the Agreement may be terminated and a civil penalty equal to the greater of \$2 million or twice the amount of the Agreement shall be imposed, pursuant to sections 287.135, Florida Statutes. Said certification must also be submitted at the time of Agreement renewal, if applicable.

PUBLIC RECORDS

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

- A. Keep and maintain public records required by the COUNTY to perform services as provided under the Agreement.
- B. Upon request from the COUNTY'S Custodian of Public Records, provide the COUNTY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119 or as otherwise provided by law. The AGENCY further agrees that all fees, charges and expenses shall be determined in accordance with Palm Beach County PPM CW-F-002, Fees Associated with Public Records Requests, as it may be amended or replaced from time to time.
- C. 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 Agreement term and following completion of the Agreement, if the AGENCY does not transfer the records to the public agency.
- D. Upon completion of the Agreement the AGENCY shall transfer, at no cost to the COUNTY, all public records in possession of the AGENCY unless notified by COUNTY'S representative/liaison, on behalf of the COUNTY'S Custodian of Public Records, to keep and maintain public records required by the COUNTY to perform the service. If the AGENCY transfers all public records to the COUNTY upon completion of the Agreement, the AGENCY shall destroy any duplicate public records that are exempt, or confidential and exempt from public records disclosure requirements. If the AGENCY keeps and maintains public records upon completion of the Agreement, the AGENCY shall meet all applicable requirements for retaining public records. All records stored electronically by the AGENCY must be provided to COUNTY, upon request of the COUNTY'S Custodian of Public Records, in a format that is compatible with the information technology systems of COUNTY, at no cost to COUNTY.

Failure of the AGENCY to comply with the requirements of this article shall be a material breach of the Agreement. COUNTY shall have the right to exercise any and all remedies available to it, including but not limited to, the right to terminate for cause. AGENCY acknowledges that it has familiarized itself with the requirements of Chapter 119, Florida Statutes, and other requirements of state law applicable to public records not specifically set forth herein.

IF THE AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, PLEASE CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT RECORDS REQUEST, PALM BEACH COUNTY PUBLIC AFFAIRS DEPARTMENT, and 301 N. OLIVE AVENUE, WEST PALM BEACH, FL 33401, BY E-MAIL AT RECORDSREQUEST@PBCGOV.ORG OR BY TELEPHONE AT 561-355-6680.

CRIMINAL HISTORY RECORDS CHECK

The AGENCY, AGENCY'S employees, sub-contractors of AGENCY and employees of sub-contractors shall comply with Palm Beach County Code, Section 2-371 - 2-377, the Palm Beach County Criminal History Records Check Ordinance ("Ordinance"), for unescorted access to critical facilities ("Critical Facilities") or criminal justice information facilities ("CJI Facilities") as identified in Resolutions R-2013-1470 and R2015-0572, as amended. The AGENCY is solely responsible for the financial, schedule, and/or staffing implications of this Ordinance. Further, the AGENCY acknowledges that its Agreement price includes any and all direct or indirect costs associated with compliance with this Ordinance, except for the applicable FDLE/FBI fees that shall be paid by the COUNTY.

The Agreement may include sites and/or buildings which have been designated as either "critical facilities" or "criminal justice information facilities" pursuant to the Ordinance and Resolutions, as amended. COUNTY staff representing the DEPARTMENT will contact the AGENCY(IES) and provide specific instructions for meeting the requirements of this Ordinance. Individuals passing the background check will be issued a badge. The AGENCY shall make every effort to collect the badges of its employees and its sub-contractors' employees upon conclusion of the Agreement and return them to the COUNTY. If the AGENCY or its sub-contractor(s) terminates an employee who has been issued a badge, the AGENCY must notify the COUNTY within two (2) hours. At the time of termination, the AGENCY shall retrieve the badge and shall return it to the COUNTY in a timely manner.

The COUNTY reserves the right to suspend the AGENCY if the AGENCY 1) does not comply with the requirements of COUNTY Code Section 2-371 - 2-377, as amended; 2) does not contact the COUNTY regarding a terminated AGENCY employee or sub-contractor employee within the stated time; or 3) fails to make a good faith effort in attempting to comply with the badge retrieval policy.

PALM BEACH COUNTY OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General in Palm Beach County Code 2-421 through 2-440, as may be amended, which is authorized and empowered to review past, present and proposed COUNTY contracts, transactions, accounts and records. The Inspector General has the power to subpoena witnesses, administer oaths and require the production of records, and audit, investigate, monitor, and inspect the activities of the AGENCY, its officers, agents, employees, and lobbyists in order to ensure compliance with Agreement requirements and detect corruption and fraud.

Failure to cooperate with the Inspector General or interference or impeding any investigation shall be in violation of Palm Beach County Code Section 2-421 through 2-440, and punished pursuant to section 125.69, Florida Statutes, in the same manner as a second degree misdemeanor.

AUTHORITY TO PRACTICE

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

DISCRIMINATORY VENDOR LIST

An entity or affiliate who has been placed on the discriminatory vendor list may not: contract to provide goods or services to a public entity; contract with a public entity for the construction or repair of a public building or public work; lease real property to a public entity; award or perform work as a vendor, supplier, sub-contractor, or agency under contract with any public entity; nor transact business with any public entity. The Florida Department of Management Services is responsible for maintaining the Discriminatory Vendor List and intends to post the list on its website. Questions regarding the discriminatory vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity at (850) 487-0915.

FEDERAL AND STATE TAX

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

The AGENCY shall be responsible for payment of its own and its share of its employees' payroll, payroll taxes and benefits with respect to the Agreement.

FACILITIES/OFFICE SPACE

The COUNTY shall grant the AGENCY the right, revocable license and privilege of accessing and using room(s) (the Premises), contingent on availability, at the following COUNTY locations:

810 Datura Street
West Palm Beach, FL 33401

6415 Indiantown Road
Jupiter, FL 33450

1440 Martin Luther King Boulevard
Riviera Beach, FL 33404

1699 Wingfield Street
Lake Worth, FL 33460

38754 State Road #80, Room #216

The room shall be used solely and exclusively for general office purposes and meeting their obligations under the terms of the Agreement. Additional provisions on the license, use and restrictions regarding the Premises are detailed in The Use and Restrictions Regarding the Premises, which is incorporated herein.

DEBARMENT AND SUSPENSION

A completed "Certification Regarding Debarment and Suspension" is required at time of Agreement execution. Upon request, the AGENCY agrees to provide the COUNTY with subsequent certification(s) for it and/or its suppliers, sub-recipients and sub-agencies after Agreement award.

The Agreement is a covered transaction for purposes of 2 C.F.R. 180 and 2 C.F.R. 3000. As such the AGENCY is required to verify that none of the AGENCY, its principals (defined at 2 C.F.R. 180.995), or its affiliates (defined at 2 C.F.R. 180.905) are excluded (defined at 2 C.F.R. 180.935).

The AGENCY must comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C while the Agreement is valid and throughout the period of any contract that may arise from the Agreement, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

This certification is a material representation of fact relied upon by the COUNTY. If it is later determined that the AGENCY did not comply with 2 C.F.R. 180, subpart C and 2 C.F.R. 3000, subpart C, in addition to remedies available to the Federal Government serving as Grantor and COUNTY as Recipient, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

FEDERAL SYSTEM FOR AWARD MANAGEMENT

A contract award shall not be made to parties listed on the government-wide exclusions set forth in the System for Award Management ("SAM") (found at www.sam.gov), which contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority.

CLEAN AIR ACT AND THE FEDERAL WATER POLLUTION CONTROL

AGENCY agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended (42 U.S.C. § 7401 et seq.) and the Federal Water Pollution Control Act, as amended (33 U.S.C. § 1251 et seq.)

The AGENCY agrees to report each violation to the COUNTY, and understands and agrees that the COUNTY will, in turn, report each violation as required by the federal awarding agency and the appropriate Environmental Protection Agency Regional Office.

The AGENCY agrees to include these requirements in each sub-contract exceeding \$100,000 financed in whole or in part with Federal assistance money.

SCIENTIFIC RESEARCH AND DEVELOPMENT AND COPYRIGHT AND PATENT RIGHTS

Those solicitations or contracts providing federal funds in support of scientific research and development must comply with the requirements of 37 C.F.R. 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

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

MANDATORY STANDARDS AND POLICIES RELATING TO ENERGY EFFICIENCY

AGENCY is required to comply with mandatory standards and policies related to energy efficiency that are contained in the State energy conservation plan issued in accordance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871) (42 U.S.C. 6201).

PROCUREMENT OF RECOVERED MATERIALS

AGENCY is to provide COUNTY with those goods designated by the Environmental Protection Agency "(EPA)", at 40 C.F.R. 247.1 et seq., that contain the highest percentage of recovered materials practicable while maintaining a satisfactory level of competition for goods valued above \$10,000 or where the value of the goods procured during the preceding fiscal year exceeded \$10,000. Categories of goods with the highest percentage of recovered materials include construction products; landscaping products; miscellaneous products; non-paper office products; paper and paper products; park and recreation products; transportation products; and, vehicular products.

PROGRAM FRAUD AND FALSE OR FRAUDULENT OR RELATED ACTS

AGENCY acknowledges that 31 U.S.C. Chapter 38 (Administrative Remedies for False Claims and Statements) applies to the AGENCY'S actions pertaining to the Agreement.

FEDERAL CRIMINAL LAW/FALSE STATEMENTS ACT

AGENCY acknowledges that it must comply with The False Statement Act, which sets forth liability for, among other things, any person who knowingly submits a false claim to the Federal Government or causes another to submit a false claim to the government or knowingly makes a false record or

statement to get a false claim paid by the government. For example, a false claim could include false billing documentation submitted by the COUNTY received from an agency or sub-contractor under the Agreement. (31 U.S.C. § 3729).

REGULATIONS

The AGENCY shall comply with all federal, state and local laws, ordinances and regulations applicable to the services contemplated herein, to include those applicable to conflict of interest and collusion. The AGENCY is presumed to be familiar with all federal, state and local laws, ordinances, codes and regulations that may in any way affect the services offered, and any other applicable federal requirements now in effect or imposed in the future.

E-VERIFY - EMPLOYMENT ELIGIBILITY

AGENCY warrants and represents that it is in compliance with section 448.095, Florida Statutes, as may be amended. No later than January 1, 2021, AGENCY shall: (1) register with and use the E-Verify System (E-Verify.gov), to electronically verify the employment eligibility of all newly hired workers; and (2) verify that all of the AGENCY'S subcontractors performing the duties and obligations of this Contract are registered with and use the E-Verify System to electronically verify the employment eligibility of all newly hired workers. AGENCY shall obtain from each of its subcontractors an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an Unauthorized Alien, as that term is defined in section 448.095(1)(k), Florida Statutes, as may be amended. AGENCY shall maintain a copy of any such affidavit from a subcontractor for, at a minimum, the duration of the subcontract and any extension thereof. This provision shall not supersede any provision of this Contract which requires a longer retention period.

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

COUNTERPARTS

The Agreement, including the exhibits referenced herein, may be executed in one or more counterparts, all of which shall constitute collectively but one and the same Agreement. The COUNTY may execute the Agreement through electronic or manual means.

ENTIRETY OF CONTRACTUAL AGREEMENT

The AGENCY agrees that the Implementation Plan has been developed from the AGENCY'S funding application and that the COUNTY expects performance by the AGENCY in accordance with such application. In the event of a conflict between the application and the Agreement, the Agreement shall control.

The COUNTY and the AGENCY both further agree that the Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein.

None of the provisions, terms and conditions contained in the Agreement may be added to, modified, superseded or otherwise altered, except by written instrument executed by the parties hereto.

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