

**CONTRACT BETWEEN
THE CITY OF TREASURE ISLAND**

AND _____

FOR

This CONTRACT is made and entered into on the ____ day of _____, 20____
 (“**Effective Date**”), by and between the City of Treasure Island, a public body politic
and municipal corporation organized and existing under the Laws of Florida whose address is:
City of Treasure Island, 120 108th Avenue, Treasure Island, Florida, 33706 (“**CITY**”), and
_____, FEIN _____,
 (“**CONTRACTOR**”), collectively (the “**PARTIES**”) who hereby agree as follows:

WITNESSETH

WHEREAS, the City Commission of the City of Treasure Island has determined that
there exists the need for _____
in the City of Treasure Island; and

WHEREAS, the CONTRACTOR has provided proof of qualifications to perform the
indicated work and has been deemed a responsive and responsible vendor; and,

WHEREAS, the CONTRACTOR is willing to provide such non-exclusive services to the
Client as set forth herein subject to the terms and conditions of this Agreement; and

NOW THEREFORE, in consideration of the mutual benefits to the CITY and
CONTRACTOR, the following covenants and contracts are set forth to which the parties hereto
agree as follows:

SECTION 1. **SCOPE OF WORK.**

The CITY hereby engages CONTRACTOR to provide such goods and/or to perform the services and activities that are specifically described in Exhibit A, attached and made part of this agreement.

SECTION 2. **TERM.**

The term of the contract will extend from the effective date until the final payment of the invoice by the City, unless otherwise specified in this agreement.

SECTION 3. **OBLIGATIONS OF THE CONTRACTOR.**

Obligations of the CONTRACTOR include, but are not limited to, the following:

- a. It is understood that the CONTRACTOR shall provide and pay for all labor, tools, materials, permits, equipment, transportation, supervision, and any and all other items or services, of any type whatsoever, which are necessary to fully complete and deliver the services requested by the CITY, and will not have the authority to create, or cause to be filed, any liens for labor and/or materials on, or against, the CITY, or any property owned by the CITY. Such lien, attachment, or encumbrance, until it is removed, will preclude any and all claims or demands for any payment expected by virtue of this Contract.
- b. The CONTRACTOR will ensure that all of its employees, agents, sub-contractors, representatives, volunteers, and the like, fully comply with all of the terms and conditions in this CONTRACT, when providing services for the CITY in accordance with this CONTRACT.
- c. The CONTRACTOR will be solely responsible for the means, methods, techniques, sequences, safety programs, and procedures necessary to properly and fully complete the work set forth in the Scope of Work.
- d. The CONTRACTOR must maintain an adequate and competent staff, and remain authorized to do business within the State of Florida. The CONTRACTOR may subcontract the services requested by the CITY; however, the CONTRACTOR is fully responsible for the satisfactory completion of all subcontracted work.
- e. The CONTRACTOR agrees to keep the CITY advised as to CONTRACTOR's progress in performing the services hereunder, including written reports as reasonably requested by the CITY.

SECTION 4. STANDARD OF CARE.

a. The CONTRACTOR has represented to the CITY that it possesses a level of knowledge, experience, and expertise that is commensurate with firms in the areas of practice required for the services to be provided. By executing this Contract, the CONTRACTOR agrees that the CONTRACTOR will exercise that degree of care, knowledge, skill and the ability as any other similarly situated contractor possessing the degree of skill, knowledge, experience, and expertise within the local area, working on similar activities. The CONTRACTOR shall perform the services requested in an efficient manner, consistent with the CITY'S stated Scope of Work and industry standards.

b. The CONTRACTOR covenants and agrees that it and its employees, agents, subcontractors, representatives, volunteers, and the like, will be bound by the same standards of conduct as stated above.

SECTION 5. COMPENSATION.

a. The amount to be paid under this Contract will be based on the prices supplied by the CONTRACTOR and included herein as Exhibit B. The CONTRACTOR agrees to do all the work and furnish all of the materials, and labor necessary to carry out this Contract in the manner and to the full extent as set forth in the Scope of Work. The CITY will have at all times, full opportunity to inspect the materials to be furnished and/or the Work to be performed under this CONTRACT.

b. Compensation for services completed by the CONTRACTOR will be paid in accordance with Section 218.70, Florida Statutes, and Florida's Prompt Payment Act.

c. Service to be performed in accordance with this Contract are subject to the annual appropriation of funds by the CITY. In its sole discretion, the CITY reserves the right to forgo use of the CONTRACTOR for any project which may fall within the Scope of Work listed in this CONTRACT. In the event the CITY is not satisfied with the services provided by the CONTRACTOR, the CITY will hold any amounts due until such time as the CONTRACTOR has appropriately addressed the problem.

SECTION 6. TERMINATION AND FORCE MAJEURE

a. Termination. The CONTRACTOR will serve at the pleasure of the City Commission and may be removed. The CITY or CONTRACTOR may terminate this Contract with or without cause upon thirty (30) days' written notice to all parties. Upon termination of this Contract, however terminated, the CONTRACTOR shall turn over to the CITY all work product completed, or partially completed,

up to the date of termination. The CITY will have full right to use such work product in any manner, in the sole discretion of the CITY.

b. Force Majeure. Neither Party to this CONTRACT will be liable for its failure to perform under the Contract due to any circumstances beyond its reasonable control such as act of God, wars, riots, national emergencies, sabotage, strikes, labor disputes, accidents, and governmental laws, ordinances, rules, or regulations. The CONTRACTOR or CITY may suspend its performance under this Contract as a result of Force Majeure without being in default of the CONTRACT, but upon removal of such Force Majeure the CONTRACTOR or CITY will resume its performance as soon as reasonably possible.

SECTION 7. PAYMENT WHEN SERVICES ARE TERMINATED.

a. In the event of termination of this Contract by the CITY, and not due to the fault of the CONTRACTOR, the CITY will compensate the CONTRACTOR for all authorized services performed prior to the effective date of termination.

b. In the event of termination of this CONTRACT due to the fault of the CONTRACTOR, or at the written request of the CONTRACTOR, the CITY will compensate the CONTRACTOR for all authorized services completed, prior to the effective date of termination, which have resulted in a usable product or otherwise tangible benefit to the CITY. All such payments will be subject to an offset for any damages incurred by the CITY resulting from any delay occasioned by early termination. This provision will in no way be construed as the sole remedy available to the CITY in the event of breach by the CONTRACTOR.

SECTION 8. CITY OBLIGATIONS.

At the CONTRACTOR'S request, the CITY agrees to provide, at no cost, all pertinent information known to be available to the CITY to assist the CONTRACTOR in providing and performing the required services.

SECTION 9. APPLICABLE LICENSING.

The CONTRACTOR, at its sole expense, shall obtain all required federal, state, and local licenses, occupational and otherwise, required to successfully provide the services set forth in this CONTRACT.

SECTION 10. **COMPLIANCE WITH ALL LAWS.**

The CONTRACTOR, at its sole expense, shall comply with all laws, ordinances, judicial decisions, orders, and regulations of federal, state, county, and CITY, as well as their respective departments, commissions, boards, and officers, which are in effect at the time of execution of this Contract or are adopted at any time following the execution of this Contract.

By executing this Contract and each and every renewal, pursuant to section 287.135, Florida Statutes, Contractor certifies, represents, and warrants that: (a) it is not on the Scrutinized Companies the boycott Israel list and (b) that it is not participating in a boycott of Israel, and that all such certifications are true from the time of solicitation through as of the effective date of any renewal. Notwithstanding anything contained in this Agreement to the contrary, the City may terminate this Agreement immediately if: (1) Contractor is found to have submitted a false certification regarding (a) – (b) above in accordance with section 287.135, Florida Statutes. Such termination shall be in addition to any and all remedies available to the City at law.

SECTION 11. **SCHEDULE.**

The CONTRACTOR agrees to commence work under this CONTRACT in the timeliest and most prudent manner from the date set forth in the CONTRACT issued by the CITY, to comply with all time schedules, and to fully complete the work as described.

SECTION 12. **INDEPENDENT CONTRACTOR.**

This CONTRACT does not create an employee/employer relationship between the parties. It is the parties' intention that the CONTRACTOR, its employees, sub-contractors, representatives, volunteers, and the like, will be an independent contractor and not an employee of the CITY for all purposes, including, but not limited to, the application of the following, as amended: the Fair Labor Standards Act minimum wage and overtime payments, the Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State of Florida revenue and taxation laws, the State of Florida workers' compensation laws, the State of Florida unemployment insurance laws, and the Florida Retirement System benefits. The CONTRACTOR will retain sole and absolute discretion in the judgment on the manner and means of carrying out the CONTRACTOR'S activities and responsibilities under this Contract.

SECTION 13. BANKRUPTCY OR INSOLVENCY.

If the CONTRACTOR files a petition in bankruptcy, or if the CONTRACTOR is adjudged bankrupt or insolvent by any court, or if a receiver of the property of the CONTRACTOR is appointed in any proceeding brought by or against the CONTRACTOR, or if the CONTRACTOR makes an assignment for the benefit of creditors, or proceedings are commenced on or against the CONTRACTOR'S operations, the CITY may terminate this CONTRACT immediately notwithstanding the notice requirements of Section 22 to this Contract.

SECTION 14. CONFLICT OF INTEREST.

The CONTRACTOR warrants that the CONTRACTOR has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, to solicit or secure this CONTRACT, and that the CONTRACTOR has not paid or agreed to pay any person, company, corporation, individual, or firm any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this CONTRACT. For the breach or violation of this Paragraph, the CITY has the right to terminate this CONTRACT immediately, without liability and without regard to the notice requirements of Section 6 hereof.

SECTION 15. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).

In accordance with the State of Florida, Office of the Governor, Executive Order 11-116 (superseding Executive Order 11-02; Verification of Employment Status), in the event performance of this CONTRACT is or will be funded using state or federal funds, the CONTRACTOR must comply with the Employment Eligibility Verification Program ("E-Verify Program") developed by the federal government to verify the eligibility of individuals to work in the United States and 48 CFR 52.222-54 (as-amended) is incorporated in this CONTRACT by reference. If applicable, in accordance with Subpart 22.18 of the Federal Acquisition Register, the CONTRACTOR must (1) enroll in the E-Verify Program, (2) use E-Verify to verify the employment eligibility of all new hires working in the United States, except if the CONTRACTOR may choose to verify only new hires assigned to the CONTRACT; (3) use E-Verify to verify the employment eligibility of all employees assigned to the CONTRACT; and (4) include these requirements in certain subcontracts, such as construction. Information on registration for and use of the E-Verify Program can be obtained via the internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>

SECTION 16. EQUAL OPPORTUNITY EMPLOYER.

The CONTRACTOR is an Equal Opportunity Employer and will comply with all equal opportunity employment laws. The CONTRACTOR will further ensure that all sub-contractors it utilizes in providing the services required under this CONTRACT will comply with all equal opportunity employment laws.

SECTION 17. INSURANCE.

The CONTRACTOR shall maintain insurance acceptable to the City of Treasure Island in full force and effect throughout the term of this Purchase Order. The City of Treasure Island further reserves the right to require Vendor name the City of Treasure Island as an additional insured under any insurance policy required to be maintained pursuant to any bid, Request for Qualifications or Request for Proposal document or any signed agreement between the City and Vendor and to require that the City of Treasure Island be provided a certificate of insurance evidencing the required insurance, all in the City of Treasure Island's sole discretion.

SECTION 18. INDEMNIFICATION.

The CONTRACTOR agrees to be liable for any and all damages, losses, and expenses incurred, by the CITY, caused by the acts or omissions of the CONTRACTOR, or any of its employees, agents, sub-contractors, representatives, volunteers, or the like. The CONTRACTOR agrees to indemnify, defend and hold the CITY harmless for any and all claims, suits, judgments, or damages, losses and expenses, including but not limited to, court costs, expert witnesses, consultation services and reasonable attorney's fees, arising from any and all acts or omissions of the CONTRACTOR, or any of its public officials, employees, agents, sub-contractors, representatives, or volunteers. These indemnification, defense, and hold harmless actions will not be limited by the amount of insurance required in this CONTRACT. CONTRACTOR liability under this indemnification provision includes all attorneys' fees and experts' fees and costs incurred by the CITY in the enforcement of this indemnification provision. This provision will survive termination or expiration of this CONTRACT.

SECTION 19. SOVEREIGN IMMUNITY.

The CITY expressly retains all rights, benefits and immunities of sovereign immunity in accordance with Section 768.28, Florida Statutes. Notwithstanding anything set forth in any section, article or paragraph of this CONTRACT to the contrary, which may have been adopted by the Florida Legislature or may be adopted by the Florida Legislature, and the cap on the amount and liability of

the CITY for damages, attorney fees and costs, regardless of the number or nature of claims in tort, equity or contract, will not exceed the dollar amount set by the Florida Legislature for tort. Nothing in this CONTRACT will inure to the benefit of any third party for the purpose of allowing any claim against the CITY which would otherwise be barred under the Doctrine of Sovereign Immunity or operation of law.

SECTION 20. PUBLIC RECORDS.

The CONTRACTOR agrees to comply with the Florida Public Records Act, as applicable, including, but not limited to Section 119.0701 of the Florida Statutes. Documents which are considered public records under Florida law may include, but are not limited to: records related to the entry, management and implementation of this CONTRACT; emails/correspondence between the CITY and the CONTRACTOR related to this CONTRACT; emails or correspondence from all other entities related to this CONTRACT (i.e., subcontractors, suppliers, vendors, etc.); billing and related documents; plans or other documents that may be necessary, reports, etc.; subcontracts; and, all vendor invoices. The CONTRACTOR agrees, to the extent required by law, to:

- a. Keep and maintain public records that ordinarily and necessarily would be required by the public agency in performing the services of the CONTRACT;
- b. Provide the public with access to the public records under the same terms and conditions that the CITY would provide the records and at a cost that does not exceed the cost provided for by law;
- c. Ensure that the public records are exempt or confidential, and exempt from public disclosure requirements, are not disclosed, except as authorized by law; and
- d. Meet all requirements for public records and transfer, at no cost, to the CITY, all public records in possession of the CONTRACTOR, upon termination or completion of the CONTRACT and destroy any duplicate public records that are exempt or confidential, or exempt from public record disclosure requirements.

Furthermore, the CONTRACTOR agrees that all records stored electronically must be provided to the CITY in a format that is compatible with the information technology systems of the CITY. The CONTRACTOR shall promptly provide the CITY with a copy of any request to inspect or copy public records that the CONTRACTOR receives and a copy of the CONTRACTOR'S response to each

request. The CONTRACTOR understands and agrees that failure to provide access to the public records is a material breach of this CONTRACT and grounds for termination.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (727) 547-4575 ext. 229, rnickerson@mytreasureisland.org, and City Hall, 120 108th Ave., Treasure Island, FL, 33706.

THE CONTRACTOR ACKNOWLEDGES THAT THE CITY OF TREASURE ISLAND CANNOT AND WILL NOT PROVIDE LEGAL OR BUSINESS ADVICE TO THE CONTRACTOR WITH RESPECT TO ITS OBLIGATIONS PURSUANT TO THIS SECTION RELATED TO PUBLIC RECORDS. THE CONTRACTOR ACKNOWLEDGES THAT IT WILL NOT RELY ON THE CITY OF TREASURE ISLAND OR ITS CITY ATTORNEY TO PROVIDE SUCH BUSINESS OR LEGAL ADVICE AND THAT CONTRACTOR HAS BEEN ADVISED TO SEEK PROFESSIONAL ADVICE WITH REGARD TO PUBLIC RECORDS MATTERS ADDRESSED BY THIS CONTRACT.

SECTION 21. AUDITING, RECORDS, AND INSPECTIONS.

In the performance of this CONTRACT, the CONTRACTOR shall keep books, records, and accounts of all activities, related to the CONTRACT, in compliance with generally accepted accounting procedures. Throughout the term of this CONTRACT, books, records, and accounts related to the performance of this CONTRACT must be open to inspection during regular business hours by an authorized representative of the CITY, and must be retained by the CONTRACTOR for a period of three years after termination or completion of the CONTRACT, or until the full CITY audit is complete, whichever comes first. The CITY retains the right to audit the books during the three-year retention period. All books, records, and accounts related to the performance of this CONTRACT are subject to the applicable provisions of the Florida Public Records Act, Chapter 119, and Florida Statutes. The CITY also has the right to conduct an audit within sixty (60) days from the effective date of this CONTRACT to determine whether the CONTRACTOR has the ability to fulfill its contractual obligations to the satisfaction of the CITY. The CITY has the right to terminate this CONTRACT based upon its findings in this audit without regard to the termination provision set forth in this CONTRACT.

SECTION 22. NOTICE.

All notices required to be given to the CITY or CONTRACTOR under this CONTRACT must be sent by (a) registered or certified mail, and notice will be deemed to have been given on the date of acceptance; or (b) delivery (i.e., courier or other hand delivery), overnight delivery, email or facsimile transmission, and notice will be deemed to have been given on the day of delivery or transmission. If the day of notice is a Saturday, Sunday, or legal holiday, notice will be deemed to have been given on the first calendar day thereafter which is not a Saturday, Sunday, or legal holiday. All notices required to be given to the CITY must be made to the CITY at:

City of Treasure Island
Attention: Michael Munger, Purchasing Coordinator
120 108th Avenue
Treasure Island, Florida 33706
Phone: (727)-547-4575 x241
Fax: (727)-547-4582
mmunger@mytreasureisland.org

Or to such other address or facsimile number as the CITY may direct from time to time by written notice forwarded to the CONTRACTOR as provided above.

All notices required to be given to CONTRACTOR in this CONTRACT must be sent to CONTRACTOR at:

Company: _____
Attention: _____
Address: _____
Phone: _____
Fax: _____
Email: _____

or to such address or facsimile number as the CONTRACTOR may direct from time to time by written notice forwarded to the CITY as provided above. E-mail transmittal of notices are considered delivered as of the date of electronic transmission. Both parties will supplement emailed notices with a formal version of the notice as outlined above.

SECTION 23. DOCUMENTS CONSTITUTING ENTIRE CONTRACT.

The following documents are hereby incorporated and made part of this Contract:

- Exhibit A – Scope of Work
- Exhibit B – Pricing

SECTION 24. MISCELLANEOUS.

- i. The laws of the State of Florida govern all aspects of this CONTRACT. In the event it is necessary for either party to initiate legal action regarding this CONTRACT, venue will lie in Pinellas County, Florida. **THE PARTIES WAIVE THEIR RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR CLAIM, ARISING OUT OF THIS CONTRACT, WHICH MAY BE BROUGHT BY EITHER OF THE PARTIES.**
- ii. CONTRACTOR has been made aware Section 287.133, 134 and 135, Florida Statutes, and the CITY'S requirement that the CONTRACTOR has complied with these laws in all respects prior to and will comply with them in all respects during the term of this CONTRACT.
- iii. CONTRACTOR and any Subcontractors understand and will comply with Section 20.055(5) of the Florida Statutes and thereby agree to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing pursuant to said section.
- iv. This CONTRACT is only assignable by the CONTRACTOR upon the express written consent of the CITY.
- v. This CONTRACT is binding upon and inures to the benefit of the Parties, their heirs, personal representatives, successors, and assigns.
- vi. Failure of the parties to insist upon strict performance of any of the covenants, terms, provisions, or conditions, or conditions of this CONTRACT, or to exercise any right or option contained in this CONTRACT will not be construed as a waiver or a relinquishment for the future of any such covenant, term, provision, condition, or right of election, but the same will remain in full force and effect.
- vii. In the event the CITY issues a purchase order, memorandum, letter, or any other instrument addressing the services, work, and materials to be provided and performed pursuant to this CONTRACT, it is specifically agreed and understood by the Parties that any such purchase order, memorandum, letter, or other instrument is for the CITY'S internal purposes only, and any and all terms, provisions, and conditions contained in this CONTRACT, whether printed or

written, will in no way modify the covenants, terms, and provisions of this CONTRACT and will have no force or effect on this CONTRACT.

- viii. The covenants, terms, and provisions of this CONTRACT may be modified by way of a written instrument, mutually accepted by the parties hereto. In the event of a conflict between the covenants, terms, and/or provisions of this CONTRACT and any written Amendment(s) hereto, the provisions of the latest executed instrument will take precedence.
- ix. All clauses found in this CONTRACT will act independently of each other. If a clause is found to be illegal or unenforceable, it will have no effect on any other provision of this CONTRACT. It is understood by the Parties that if any part, term, or provision of this CONTRACT is by the courts held to be illegal or in conflict with any law of the State of Florida, or the United States, the validity of the remaining portions or provisions will not be affected, and the rights and obligations of the Parties will be construed and enforced as if the CONTRACT did not contain the particular part, term, or provision held to be invalid.
- x. All headings of the sections, exhibits, and attachments contained in this CONTRACT are for the purpose of convenience only and must not be deemed to expand, limit or change the provisions contained in such sections, exhibits, and attachments.
- xi. The Parties represent and warrant that they have entered into this CONTRACT relying wholly upon their own judgment, belief and knowledge of the nature, extent, effect and duration of any actions, damages and liability therefore. The Parties represent that they enter into this CONTRACT without relying upon any statement or representation of the adverse parties other than what has been set forth in writing in this CONTRACT. The Parties represent that they have had the opportunity to discuss this matter with counsel of their choosing and are satisfied with its counsel and the advice received. The Parties understand this CONTRACT's contents and this CONTRACT will be construed as resulting from joint negotiation and authorship. No part of this CONTRACT will be construed as the product of any one of the Parties. The Parties further declare and represent that no promise, inducement, agreement or understanding not expressed in this CONTRACT has been made to an adverse party and that the terms of this CONTRACT are contractual and not a mere recital. This CONTRACT will be deemed and treated as drafted jointly by all the Parties, and no term, condition or provision of this CONTRACT will be construed more strictly against any Party.
- xii. All words used in this CONTRACT in the singular will extend to and include the plural, and the use of any gender will extend to and include all genders. The term 'including' is not limiting.

- xiii. Each of the Parties covenants to the other party to this CONTRACT that it has lawful authority to enter into this CONTRACT, that the governing or managing body of each of the Parties has approved this CONTRACT, and that the governing or managing body of each of the Parties has authorized the execution of this CONTRACT in the manner set forth below.
- xiv. This CONTRACT must be executed by the respective duly authorized officials, and will take effect as of the day and year first above written.

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IN WITNESS WHEREOF, the parties have made and executed this Agreement on the date and year first above written.

**As To
CONTRACTOR**

(name of corporation or business)

BY: _____
(title of authorized corporate officer or individual)

Signature

Printed Name

**As To
CITY OF TREASURE ISLAND**

ATTEST:

(title of authorized City official)

Signature

Signature