

BREVARD COUNTY, FLORIDA

**PROFESSIONAL SERVICES CONTRACT
EXECUTIVE SEARCH AND RECRUITMENT
Colin Baenziger & Associates**

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PROFESSIONAL SERVICES CONTRACT EXECUTIVE SEARCH AND RECRUITMENT

THIS CONTRACT is made and entered into on the date of last signature below, hereinafter referred to as the Effective Date, by and between the following Parties: **BREVARD COUNTY, FLORIDA**, a political subdivision of the State of Florida, hereinafter referred to as COUNTY, and **Colin Baenziger & Associates**, a business having its principal address at **2055 South Atlantic Avenue, Suite 504, Daytona Beach Shores, FL 32118**, hereinafter referred to as CONTRACTOR.

RECITALS

WHEREAS, the COUNTY desires to contract with a qualified professional to provide executive search and recruitment services; and

WHEREAS, the COUNTY issued Request for Proposals RFP 3-25-19 on April 25, 2025, for professional services, the CONTRACTOR submitted the highest ranking responsive, responsible proposal, and the COUNTY has selected the CONTRACTOR to perform professional services for executive search and recruitment; and

NOW THEREFORE, in consideration of the mutual promises hereinafter contained, the Parties agree as follows:

1. RECITALS.

The above recitals are incorporated into this Contract by this reference.

2. ADMINISTRATION.

2.1 This Contract is administered by the Office of Human Resources, an office of the Brevard County Board of County Commissioners, hereinafter referred to as the

Office.

2.2 Unless stated otherwise by the COUNTY, in the case of any conflict between the Contract Documents, the order of precedence shall be as follows (as applicable): (1) Change Orders; (2) Addenda (with those of later date having precedence over those of earlier date); (3) the COUNTY's RFP3-25-19; (4) the CONTRACTOR's response; and (5) any other associated documents.

3. TERM.

The term of this Contract shall be effective on the date the last party signs the Contract and will continue until October 1, 2025, or when the recruitment has been completed, whichever occurs first.

4. NON-EXCLUSIVE CONTRACT.

The Parties acknowledge that this Contract is not an exclusive agreement, and the COUNTY may employ other similar contractors to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the CONTRACTOR as it may approve in the sole discretion of the COUNTY. The Parties agree that the COUNTY is not obligated to execute any Task Order for any specific project or part thereof.

5. DEFINITIONS.

5.1. Change Order. A document issued by the COUNTY to the CONTRACTOR that describes modifications and/or revisions to the scope of services, to the schedule for deliverables which involve changes in cost, and/or to changes in compensation. A no-cost time extension is not defined as a Change Order. All Change Orders are subject to the terms and conditions of this Contract.

5.2. Date of Execution. This Contract's date of execution and the effective date of the Contract are the last date upon which it is fully executed/signed by both Parties.

5.3. Purchase Order. The COUNTY's document used to authorize a purchase transaction with a contractor, generally used for one-time purchases or open framework purchase orders, which contains provisions for goods and/or services ordered, applicable terms as to payment, discounts, date or performance, transportation, and other factors or conditions relating to the transaction. Acceptance of a purchase order by a vendor shall constitute a contract, except in instances in which a purchase order is used only as an internal encumbrance document in SAP

5.4. Work. A general term for the professional services provided by the CONTRACTOR under this Contract.

5.5. Scope of Work. A defined term for all work that the CONTRACTOR creates or produces for the COUNTY, but not limited to, report gathering, assessments, development of recruitment materials, networking, candidate review, and other documents or activities used by the CONTRACTOR in fulfilling the deliverables.

6. SCOPE OF PROFESSIONAL SERVICES.

6.1. The scope of professional services is identified in the COUNTY's Request for Proposal RFP 3-25-19, excerpts of the RFP's SCOPE OF SERVICES as reflected in Attachment B, and the CONTRACTOR's submission, which are incorporated herein by this reference.

7. STANDARD OF CARE REQUIRED FOR PROFESSIONAL SERVICES.

7.1. CONTRACTOR agrees to perform professional services associated with the requested work in accordance with this Contract in a manner consistent with the

professional skill and degree of care and diligence ordinarily provided by other similar professionals in the same or similar locality under the same or similar circumstances and as further set forth herein.

7.2. CONTRACTOR further agrees that the standard of care required of CONTRACTOR to provide the professional services under this Contract includes the following and that the CONTRACTOR shall:

7.2.1. Ensure the adequacy of work provided under this Contract with appropriate due diligence and a reasonable standard of care in a manner that adequately captures the scope.

7.2.2. Correct any errors and omissions and prepare any necessary revisions not involving a change in the scope of the work, that may be required because the County determined work to be unsatisfactory, substandard, defective, and/or not otherwise in compliance with the standard of care as outlined in this Contract at no additional cost. This remedy shall be cumulative to all other remedies available under law. CONTRACTOR understands and agrees to be held liable for damages to the COUNTY that result from any errors and omissions committed by the CONTRACTOR.

7.2.3. Be responsible for the professional quality, technical accuracy, timely completion, and coordination of all services furnished by CONTRACTOR under this Contract. CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions, or other service deficiencies.

7.2.4. Comply with federal, state, and local laws, codes, and ordinances applicable to the work. Failure or inability on the part of CONTRACTOR to have complete knowledge and intent to comply with such law, rules, and regulations

shall not relieve CONTRACTOR from its obligation to completely perform any task assigned pursuant to this Contract.

7.2.5. Cooperate fully with the COUNTY in the scheduling and coordination of all phases of the work.

7.2.6. Report the status of the work to the COUNTY as required or upon request and hold pertinent records open to the inspection of the COUNTY or its authorized agent at any time.

7.2.7. Submit all data representative of the work's progress for the County's review. Submit the final work upon incorporating any modifications requested by the COUNTY during any previous review for the County's review. Any COUNTY approval of the CONTRACTOR'S services shall not be deemed to diminish or waive the standard of care or skill required of the CONTRACTOR.

7.2.8. Meet deliverable dates established by the COUNTY.

8. QUALITY CONTROL.

8.1. The CONTRACTOR agrees to a high level of quality control and accuracy in keeping with its standard of care. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY.

8.2. The CONTRACTOR acknowledges that the COUNTY will periodically evaluate the CONTRACTOR'S performance and that the COUNTY will use the evaluation in determining the CONTRACTOR'S qualifications for future contracts with the COUNTY.

9. FORCE MAJEURE

9.1. The CONTRACTOR shall not be liable for its failure to perform hereunder if its performance is rendered impossible or delayed by any unforeseen act, event, or condition beyond its reasonable control, which, by the exercise of due diligence, it shall be unable to overcome. Such unforeseen acts, events, or conditions shall include, but not be limited to, the following: Acts of God, hurricanes, tornados, lightning, or earthquake; strikes or lockouts; acts of war, civil insurrection, riots or terrorism; fire or flood not caused by the Party unable to perform; change in law, not due to improper conduct; pandemics or quarantines. Notwithstanding anything in this Contract to the contrary, the term "Force Majeure" does not include and the CONTRACTOR shall not be excused from performance under this Contract for events relating to increased costs, including, without limitation, increased costs of labor, insurance, or other expenses of performing the services hereunder. The COUNTY will not grant any extensions of time for circumstances that existed or that the Contractor knew of or should have known about at the time this Contract was executed.

9.2. The failure to perform must occur directly, exclusively, and contemporaneously with the Force Majeure event. Should the CONTRACTOR be obstructed or delayed in the prosecution or completion of its services or work as a result of said unforeseeable causes beyond the control of the CONTRACTOR and not due to its own fault and neglect, CONTRACTOR shall, within 10 hours of the time the delay becomes apparent, notify the COUNTY of such delay in writing stating the cause or causes thereof, failing which the CONTRACTOR shall waive any right the CONTRACTOR may have to request a reasonable extension of time to complete the work required. Such reasonable extensions of time to complete the work shall be the sole remedy of the CONTRACTOR for such delays, and the CONTRACTOR will not be entitled to any damages or any claim for extra compensation.

10. COMPENSATION AND REIMBURSABLE COSTS.

10.1. GENERAL. As consideration for providing professional services, the COUNTY agrees to pay, and the CONTRACTOR agrees to accept, a professional fee for services. The fee for services is the only compensation to which CONTRACTOR is entitled unless pre-approved reimbursable costs.

10.2. The CONTRACTOR shall be compensated at the attached Fee and Warranty (Attachment A). Attachment A is attached and incorporated herein by reference.

10.3. Reimbursable Expenses or Costs. CONTRACTOR shall be compensated for certain work-related expenditures not covered by the fee for the professional service only if (1) the reimbursable expenses are pre-approved, or (2) CONTRACTOR has obtained written pre-approval from COUNTY prior to incurring the expense. If an expense is not pre-approved by the COUNTY, the CONTRACTOR will not be entitled to compensation by the COUNTY for such expense. When requesting the COUNTY pre-approval for an expense, the CONTRACTOR must provide a written justification for the expenses accompanied by copies of invoices, receipts, requisitions, and/or estimates (if the actual expense cannot be provided until the actual cost is incurred) to document the need for the expense. The COUNTY, upon receipt of satisfactory documentation, will provide the CONTRACTOR with its written decision on approval or rejection of said expenses. The CONTRACTOR must submit the final receipts, invoices, etc., for expenses incurred in order to be reimbursed by the COUNTY. The COUNTY will reimburse CONTRACTOR for pre-approved expenses at actual cost(s) (no markup or percentage increase will be paid by the COUNTY). Types of reimbursable expenses may include:

10.3.1. Travel Costs. The Parties agree that travel costs for normal business travel necessary under the performance of this contract are included in the CONTRACTOR's contracted fee for service. The COUNTY, in its sole

discretion, may approve a CONTRACTOR's request for reimbursement for special travel required under this professional service contract. If approved, such travel shall be reimbursed at the same rate as for COUNTY employees in accordance with the most current version of County Administrative Order AO-21, entitled "Travel," (issued by the County Manager of Brevard County, copy available upon request), as may be amended, which administrative order is incorporated to this contract by this reference, and Section 112.061, Florida Statutes. All CONTRACTOR requests for special travel must be documented on a State of Florida Travel Voucher with appropriate receipts. Without prior written approval, the COUNTY is not responsible for reimbursing the CONTRACTOR for said travel.

11. BILLING, PAYMENT, AND PARTIAL PAYMENTS

11.1. General. COUNTY will make payment to CONTRACTOR through County Finance according to Brevard County Administrative Order AO-33 (issued by the County Manager of Brevard County, copy available upon request), as may be amended, and Florida's Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes, including the provision of an IRS Form W-9. CONTRACTOR payments are subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct substandard work or work not in compliance with the terms of this Contract. The County will not honor any claim for services rendered by CONTRACTOR that is not specifically provided for in this Contract.

11.2. Process for Payment of Invoices.

11.2.1. CONTRACTOR shall submit invoices for payment to the COUNTY on a completion basis or as otherwise agreed upon. The CONTRACTOR's request for payment shall be in the form and in the manner required by the COUNTY and shall relate to work performed since the last

invoiced work. The COUNTY may require supplemental and accompanying data to support the CONTRACTOR's request for payment.

11.2.2. The amount of each invoice submitted shall be the amount due for all services performed to date in connection with authorized work, as certified by the CONTRACTOR. Each invoice shall include only authorized work and must reference the authorized services performed. Invoices for work other than lump sum shall include a breakdown for each part of the work billed for each item and personnel as identified in Attachment A to this Contract. The CONTRACTOR shall include copies of all invoices paid by the CONTRACTOR for expenses with its invoice.

12. OWNERSHIP/REUSE OF WORK WITHIN THE SCOPE OF PROFESSIONAL SERVICES.

12.1. COUNTY agrees to furnish to CONTRACTOR, upon request, for inspection and copying, any known documents or data available in the COUNTY'S files pertaining to the work to be performed under this Contract, which may be reasonably required by CONTRACTOR to be performed under this Contract. To the extent COUNTY provides such documents or data to CONTRACTOR for CONTRACTOR's use, the COUNTY agrees to obtain, or cause to be obtained, any releases or authorization necessary for the use of the documents or data.

12.2. To the extent CONTRACTOR provides work within the Scope of Work that the CONTRACTOR did not create for use by the COUNTY, the CONTRACTOR shall obtain, or cause to be obtained, any releases, or authorization necessary for the use by COUNTY to the same extent that the CONTRACTOR is required to provide COUNTY in sections 12.3 and 12.4. The CONTRACTOR agrees to be responsible for any claims, including, but not limited to, trademark or copyright infringement, arising with respect to such use of work within the Scope of Work provided by the CONTRACTOR.

12.3. To the extent the CONTRACTOR creates documents within the Scope of Work under this Contract for the COUNTY, then to the extent permissible under the law, the Parties agree the Scope of Work is specially ordered or commissioned as a “work for hire” under 17 United States Code section 101. CONTRACTOR agrees that COUNTY is the exclusive owner of all Scope of Work created under this paragraph, without restrictions or limitations upon its use. When each individual section of work requested pursuant to this sub-section is complete, all of the work shall be delivered to the COUNTY for its use. There shall be no additional compensation for the rights and property granted under this paragraph.

12.4. To the extent CONTRACTOR creates a work within the Scope of Work for the COUNTY that falls outside the definition of a “work for hire” under 17 United States Code section 101, by this paragraph, the CONTRACTOR grants to COUNTY a royalty-free, worldwide, nonexclusive, irrevocable, unlimited license right in the work created by CONTRACTOR for COUNTY pursuant to the Contract, without restrictions or limitations upon its use. Such a license includes an express right for the COUNTY to further sub-license the work and to create derivative works without restriction.

12.5. To the extent CONTRACTOR creates work within the Scope of Work for the COUNTY that depends upon original notes and working documents, the COUNTY shall be entitled to a copy of such materials upon request, and further provided that said materials shall not be destroyed without the prior written approval of the COUNTY.

12.6. For the Scope of Work, CONTRACTOR provides to COUNTY, where a photograph or video of a person with an identifiable face appears, CONTRACTOR will provide COUNTY with a standard commercial use modeling release in writing. Faces blurred to be unrecognizable do not require such a modeling release. The release will include the model’s name, age, and date of birth.

12.7. Reuse of Work within the Scope of Work.

CONTRACTOR may not reuse specifications, documents or reports specifically developed by CONTRACTOR for COUNTY without express written permission from COUNTY.

13. AUDIT RIGHTS AND PUBLIC RECORDS.

13.1. In the performance of this Contract, CONTRACTOR shall keep books, records, and accounts of all activities related to this Contract in compliance with generally accepted accounting procedures. All documents, papers, books, records, and accounts made or received by the CONTRACTOR in conjunction with this Contract and its performance shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COUNTY or any of its duly authorized representatives reserves the right to audit the CONTRACTOR's records related to this Contract at any time during the performance of this Contract and for a period of five years after final payment is made or otherwise required by law.

13.2. Upon completion of the Contract, the CONTRACTOR shall transfer, at no cost to the COUNTY, all public records in possession of the CONTRACTOR or keep and maintain public records required by the COUNTY to perform the service. If the CONTRACTOR transfers all public records to the COUNTY upon completion of the Contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the Contract, the CONTRACTOR shall meet all applicable requirements for retaining public records, and shall retain all documents, books and records for a period of five (5) years after termination of this Contract, unless such records are exempt from section 24(a) of Article 1 of the State Constitution and Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's

custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

13.3. All records or documents created by the COUNTY or CONTRACTOR in connection with this Contract are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. It is the CONTRACTOR'S duty to identify any information in records created by the CONTRACTOR that it deems is exempt or confidential from public records laws under Florida or federal law and identify the statute number that requires the information to be held exempt. All records stored electronically by the CONTRACTOR must be provided to the COUNTY in a format compatible with the information technology systems of the COUNTY.

13.4. CONTRACTOR shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Contract and following termination of the Contract if the CONTRACTOR does not transfer the records to the COUNTY.

13.5. Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Contract must be made directly to the COUNTY. If COUNTY does not possess the requested records, COUNTY shall immediately notify the CONTRACTOR of the request and if CONTRACTOR possesses the records, CONTRACTOR must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so COUNTY can comply with the requirements of Sections 119.07, Florida Statutes. The CONTRACTOR may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47 (issued by the County Manager of Brevard County, copy is available upon request), as may be amended, incorporated herein by this reference.

13.6. If the CONTRACTOR possesses the records but fails to provide the

requested public records to the COUNTY within a reasonable time, pursuant to section 119.0701 and 119.10, Florida Statutes, the CONTRACTOR may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. The CONTRACTOR'S failure to comply with public records requests is considered a material breach of this Contract and grounds for termination.

13.7. Should the COUNTY face any legal action to enforce inspection or production of the records within the CONTRACTOR'S possession and control, the CONTRACTOR agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. CONTRACTOR shall hire and compensate attorney(s) to represent CONTRACTOR and COUNTY in defending such action. CONTRACTOR shall pay all costs to defend such action and any costs and attorney's fees awarded pursuant to Section 119.12, Florida Statutes.

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: MARYANNA DRAPER (maryanna.draper@brevardfl.gov), 2725 JUDGE FRAN JAMIESON WAY, Bld. B, RM 209, VIERA, FL 32940.

14. INDEPENDENT CONTRACTOR.

The COUNTY contracts for the services of the CONTRACTOR as an independent contractor and not as an employee. Nothing in this Contract shall be construed to create a partnership, joint venture, or agency relationship between the Parties. Neither Party shall have the authority to enter into any Contract of any kind on behalf of the other or to bind or obligate the other to any third party. As an independent

contractor, CONTRACTOR is not entitled to any of the rights, privileges or benefits of COUNTY employees.

15. EQUAL OPPORTUNITY EMPLOYMENT.

CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment work under this Contract because of race, color, religion, sex, sexual orientation, gender identity, age, national origin, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, sex, sexual orientation, gender identity, age, national origin or disability. This provision shall include, but not be limited to, the following: employment, upgrading, demotion, or transfers; recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

16. UNAUTHORIZED ALIEN WORKERS AND EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).

16.1. Unauthorized Alien Workers. The COUNTY will not intentionally award publicly-funded contracts to any contractor who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 United States Code Section 1324 (a) of the Federal Immigration and Nationality Act. The COUNTY shall consider a contractor's intentional employment of unauthorized aliens as grounds for immediate termination of this Agreement.

16.2. The CONTRACTOR shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONTRACTOR during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify

the employment eligibility of all new employees hired by the subcontractor during the Contract term. All contractors shall meet this requirement unless they are a sole proprietor who does not hire employees and therefore is not required to file a Department of Homeland Security Form I-9 or the Contract is being executed with a company based outside of the United States of America and does not have a corporation or office within the United States of America and does not employ United States of America citizens.

16.3. Upon request, the CONTRACTOR agrees to provide a copy of the E-Verify Memorandum of Understanding signed by the CONTRACTOR and the Department of Homeland Security.

16.4. CONTRACTOR agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of CONTRACTOR's enrollment in the program. This includes maintaining a copy of proof of CONTRACTOR's and any subcontractors' enrollment in the E-Verify Program.

16.5. Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach of this Contract.

16.6. A contractor who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the contractor hires or employs a person who is not eligible for employment.

16.7. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

17. SUBCONTRACTING.

The CONTRACTOR shall not subcontract, assign, or transfer any work under this Contract without the written approval of the COUNTY, including a change of subcontractor. When applicable, the CONTRACTOR shall cause the names of any subcontracted firms responsible for major portions (or separate specialty) of the work to be performed. CONTRACTOR shall remain, at all times, liable for the proper performance and completion of all work and other services required under this Contract, including supervision and administration of all such sub-contracted personnel, firms, and companies, and including any errors or omissions by said sub-contractors. The CONTRACTOR shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in its designs, drawings, specifications, reports, and other services performed by a subcontractor.

18. ASSIGNMENT.

The COUNTY and CONTRACTOR each bind its respective entity and its successors, legal representatives, and assigns to the other Party to this Contract, and to the partners, successors, legal representatives, and assigns of such other Party, and in respect to all covenants of this Contract. Neither Party shall assign or transfer their interest in this Contract without the prior written consent of the other Party. In the event that the CONTRACTOR changes its name, merges with another company, becomes a subsidiary, or makes other substantial changes in structure or in principals, the COUNTY reserves the right to terminate this Contract subject to the terms prescribed above.

19. CONFLICTS OF INTEREST.

19.1. No officers, members, or employees of COUNTY, no members of its governing body, and no other public official of the governing body of the locality or

localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this Contract, shall participate in any decision relating to this Contract which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

19.2. A conflict of interest is any situation in which the CONTRACTOR, its employees or subcontractors, are in a position to exploit their professional relationship with COUNTY in any way for their personal or corporate benefit. CONTRACTOR is specifically aware of, and concurs with, the public need for COUNTY to prohibit any potential conflicts of interest that may arise as a result of the execution of this Contract. CONTRACTOR covenants that it has extensively reviewed all of its contracts, letters of agreement, and any other indication of commitment on its behalf to perform professional services that could in any way present the reasonable possibility of an actual conflict of interest with COUNTY. CONTRACTOR covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Contract. CONTRACTOR further covenants that in the performance of this Contract, CONTRACTOR shall employ no person having any such interest. CONTRACTOR shall disclose in writing to COUNTY any conflict of interest affecting CONTRACTOR's services to COUNTY as soon as it becomes aware of the conflict.

20. PUBLIC ENTITY CRIMES.

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid/quote/proposal on a contract to provide goods or services to a public entity, may not submit a bid/quote/proposal on a contract with a public entity for construction or repair of a public building or public work, may not submit bids/quotes/proposals on leases of rental property to a public entity,

may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from date of being placed on convicted vendor list.

21. SCRUTINIZED COMPANIES LIST.

21.1. CONTRACTOR shall provide a fully executed Scrutinized Companies that Boycott Israel List Affidavit in accordance with Section 287.135, Florida Statutes, which is attached and incorporated to this Contract as Attachment C.

21.2. The CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the CONTRACTOR or its subcontractors are found to have submitted a false certification or if the CONTRACTOR or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel during the term of this Contract.

21.3. If this Contract is for more than one million dollars, the CONTRACTOR further certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.

21.4. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the CONTRACTOR, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONTRACTOR, its affiliates, or its subcontractors are placed on the Scrutinized

Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Contract.

21.5. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.

21.6. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable.

22. INDEMNIFICATION AND INSURANCE.

22.1. CONTRACTOR shall hold COUNTY harmless against any and all claims for and related in any way to bodily injury, sickness, disease, death, personal injury, damages to the property of any kind (including but not limited to loss of use of any property or assets resulting therefrom), fines, penalties, schedule delay claims of any kind, including but not limited to loss of efficiency or productivity, arising out of or resulting from the performance of the products or services for which COUNTY is contracting hereunder, to the extent caused by the negligent, reckless, or intentional wrongful acts/omissions/conduct of CONTRACTOR, or any of its agents or employees, including subcontractors. Such negligent acts/omissions/conduct by CONTRACTOR include but are not limited to, any errors or omissions in the CONTRACTOR'S services.

22.2. The CONTRACTOR agrees to fully indemnify COUNTY and pay the cost of COUNTY's legal defenses, including fees of attorneys as may be selected by COUNTY, for all claims described in the hold harmless clause above. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the COUNTY'S exclusive remedy. It is agreed by the Parties hereto that specific consideration has been

received by the CONTRACTOR under this Contract for this hold harmless/indemnification provision.

22.3. Notwithstanding any other provisions of this Contract, this indemnification section applies to both COUNTY and third-party claims and shall survive the expiration, completion, or termination of this Contract. Nothing in this section is intended to nor shall it constitute a waiver of the sovereign immunity of Brevard County, or a waiver by the COUNTY of the limits and protections established under Section 768.28, Florida Statutes, as may be amended.

22.4. CONTRACTOR shall procure and maintain, at their own expense and without cost to COUNTY, the following types of insurance described below. CONTRACTOR shall be liable and responsible for errors and omissions in the performance of any and all Contract responsibilities and shall carry professional liability insurance and indemnify the COUNTY against errors and omissions as specified herein below.

- General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include the following coverage: Operations, Products and Completed Operations, Personal Injury, Contractual Liability covering this Contract, "X-C-U" hazards, and Errors & Omissions.
- Auto Liability Insurance policy with includes coverage for all owned, non-owned and hired vehicles with a \$1,000,000 combined single limit for each occurrence.
- Professional Liability Insurance policy in the amount of \$2,000,000 per claim and \$3,000,000 in the annual aggregate covering the risk of errors and omissions in the professional services provided under this Contract. If such policy is written on a "claims made" (rather than "occurrence") basis, continuous coverage shall be maintained in effect from the date of commencement of services for a period

of at least four (4) years beyond the termination or completion of services or until expiration of any applicable statute of limitations, whichever is longer.

- Workers' Compensation and Employer's Liability Insurance providing statutory benefits as required in the State of Florida. The Contractor shall require any subcontractor to provide evidence of this coverage. Additionally, if the contract requires working on or around a navigable waterway, the Contractor and all subcontractors shall provide evidence of United States Longshoremen's and Harbor Workers (USL&H) coverage and contingent coverage of Jones Act (Marine Employers Liability) in compliance with Federal statutes, or proof of exemption. The Contractor shall be responsible for compliance with these requirements by each subcontractor, vendor or supplier when applicable.
- Cyber Liability Insurance with limits of not less than \$5,000,000 per claim. Coverage shall be sufficiently broad to respond to the duties and obligations a Contractor has undertaken by this Contract and shall include but not limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, the release of private information, alteration of electronic information, extortion and network security. This policy shall provide coverage for breach response costs, regulatory fines and penalties, and credit monitoring expenses with limits sufficient to respond to these obligations.

22.5. CONTRACTOR shall provide Certificates of Insurance and applicable endorsement pages to the COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Contract. Insurance carriers providing coverage required herein must be licensed or authorized to conduct business in the State of Florida and must possess A.M. Best's Financial Strength Rating of A- Class VIII or better. The Certificates of Insurance shall indicate

that the policies (except professional liability) have been endorsed to cover the COUNTY as an additional insured (a waiver of subrogation in lieu of additional insured status on the Workers' Compensation policy is acceptable) and that these policies may not be canceled or modified without thirty (30) days prior written notice being given by the insurer to the COUNTY.

22.6. The insurance coverages enumerated above constitute the minimum requirements and shall not lessen or limit the liability of the CONTRACTOR under the terms of the Contract. Risk Management reserves the right to modify insurance requirements based on the cost and severity of the project. Subcontractor's insurance shall be the responsibility of CONTRACTOR.

22.7. The CONTRACTOR shall maintain the insurance coverage in compliance with Paragraphs 22.1 through 22.6, above, throughout the term of this Contract and in compliance with the requirements relating to professional liability insurance above. The CONTRACTOR is also responsible for providing thirty (30) days' advanced written notice to the COUNTY of any changes or cancellations in coverage and replacement insurance.

23. DISPUTE RESOLUTION.

23.1. If the COUNTY objects to all or any portion of an invoice, the COUNTY shall so notify the CONTRACTOR and indicate in writing what corrective action is required of the CONTRACTOR. If a dispute over an invoice occurs, the Parties will work to resolve the dispute in accordance with Administrative Order AO-33 (issued by the County Manager of Brevard County, copy available upon request), as may be amended, and Section 218.76, Florida Statutes.

23.2. To the extent the COUNTY requests CONTRACTOR to perform services that the CONTRACTOR believes are not described in the Contract, then

CONTRACTOR shall provide written notice to COUNTY of the issue(s), and that CONTRACTOR will follow COUNTY's written directive provided it is without prejudice to CONTRACTOR's right to seek additional compensation from COUNTY.

CONTRACTOR shall only provide such service upon receipt of a written COUNTY directive/Notice to Proceed to explicitly perform such service. The COUNTY's delivery of such written directive/Notice to Proceed following CONTRACTOR's notification shall be without prejudice to COUNTY's right to maintain that such services do not constitute the basis for additional compensation.

23.3. Waiver. The waiver by either Party of the other Party's obligations or duties under this Contract shall not constitute a waiver of any other obligation or duty of the other Party under this Contract, nor shall a waiver of any such obligation or duty constitute a continuing waiver of that obligation or duty.

24. TERMINATION OF CONTRACT.

24.1. Termination for Convenience.

24.1.1. Termination for Convenience by the COUNTY. The COUNTY may terminate this Contract for convenience by giving the CONTRACTOR fourteen (14) calendar days written notice of such termination. If written notice is given by mail, receipt shall be presumed, and the fourteen (14) days shall begin to run, seven (7) calendar days after the date of mailing as dated on the notice. If written notice is provided in-person, the fourteen (14) days shall begin the calendar day after the delivery of the notice. The CONTRACTOR shall stop work immediately unless the COUNTY provides the CONTRACTOR written direction otherwise in the notice.

24.1.2. Termination for Convenience by the CONTRACTOR. The CONTRACTOR may terminate this Contract for convenience by giving the

COUNTY sixty (60) calendar days written notice of such termination. If written notice is given by mail receipt shall be presumed, and the sixty (60) days shall begin to run, seven (7) calendar days after the date of mailing as dated on the notice. If written notice is provided in-person, the sixty (60) days shall begin the calendar day after the delivery of the notice. The CONTRACTOR must provide the COUNTY with all records and documentation of all work performed, as of the date of the notice, within 14 calendar days of the notice. .

24.2. Termination for Failure to Perform. If the CONTRACTOR is failing to perform, the COUNTY will issue a notice of failure to perform to the CONTRACTOR listing the work for which the COUNTY has determined there is a failure to perform and describe the deficiencies in the CONTRACTOR's work. The Notice shall provide the CONTRACTOR with ten (10) calendar days from the date the Notice is received in which to correct such deficiencies described in said notice. If the CONTRACTOR fails to correct such deficiencies to the satisfaction of the COUNTY within the stated time period, then the COUNTY may terminate the Contract immediately by providing written notice to the CONTRACTOR for failure to perform. Upon termination by the County, COUNTY may take over the work and cause it to be performed to completion by Contract or otherwise. In such a case, the COUNTY reserves all rights and remedies available, including, but not limited to, the right to recover the COUNTY's additional cost incurred in securing complete performance. The rights and remedies of COUNTY provided in this clause are in addition to any other rights and remedies provided by law or under this Contract. If, after the COUNTY's termination of the Contract for failure of the CONTRACTOR to fulfill contractual obligations, it is determined that the CONTRACTOR had not failed the contractual obligations, the termination shall be deemed to be a termination for the convenience of the COUNTY.

24.3. Upon termination for any reason, the Parties agree that any work completed, or services provided by the CONTRACTOR prior to the date of termination

shall become the property of the COUNTY. Upon COUNTY's request, CONTRACTOR shall deliver to COUNTY documents or other work as may have been accumulated by CONTRACTOR in performing this Contract, whether completed or in process.

24.4. Payment on Termination. In the event of termination by COUNTY, the COUNTY'S sole obligation to CONTRACTOR shall be payment for those portions of satisfactorily completely performed work previously authorized by approved. The COUNTY shall not be obligated to pay for any services performed after CONTRACTOR has received the final notice of termination unless the COUNTY otherwise directs the CONTRACTOR in writing to complete specified elements of the work. Such payment shall be determined on the basis of the work performed by CONTRACTOR, or the percentage or work complete as estimated by CONTRACTOR and agreed upon by COUNTY up to the time of termination. In the event of such termination, COUNTY may, without penalty or other obligation to CONTRACTOR, elect to employ other persons to perform the same or similar services. In the event of deficient professional services, COUNTY shall not pay for the CONTRACTOR for deficient services; however, if any, of the work performed by the CONTRACTOR is used by or useful to any other contractor retained by COUNTY to finish the work, the County will pay the CONTRACTOR for such useful work to the extent that COUNTY does not incur additional costs, or pay twice for the same work.

25. NOTICES AND AUTHORIZED REPRESENTATIVES.

25.1. Authorized Representatives. The Parties agree that in order to facilitate the orderly and efficient completion of the work, each Party shall appoint an authorized representative(s) for such Party. The COUNTY's representative shall have the authority to transmit instructions, receive information, and interpret and define the COUNTY's policies and decisions pertinent to the work covered by this Contract as long as such transmissions do not result in an increase in the cost of or time to perform work.

The Parties understand and agree that only the Board of County Commissioners, the County Manager, or the Assistant County Managers have the authority to approve changes or modifications to this Contract. The CONTRACTOR's representative shall be authorized to act on behalf of the CONTRACTOR regarding all matters involving the conduct of its performance under this Contract.

25.2. The Parties' designated representatives and their respective addresses for purposes of this Contract are as follows:

COUNTY

Ms. Melissa Powers
2725 Judge Fran Jamieson Way, Bld. B
Viera, Florida 32940
321-633-2034

CONTRACTOR

Mr. Colin Baenziger
Colin Baenziger & Associates
2055 South Atlantic Avenue, Suite 504
Daytona Beach Shores, Florida
561-707-3537

25.3 Either Party will have the right to change its authorized representative(s) or to add representatives from time to time throughout the Contract by giving written notice to the other Party in accordance with the Notice Provisions below.

25.4 Notices. All notices required or permitted under this Contract and any written consents or approvals required shall be in writing and are in effect upon receipt. All notices for legal claims, or termination must be transmitted either by personal hand delivery; United States Postal Service (USPS), certified mail return receipt requested; or, overnight express mail delivery. Other notices, such as signed notices to proceed, may be transmitted by E-mail to the authorized representative and shall be effective on the date directed in the notice. The addresses set forth in 25.2 for the respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

26. ATTORNEY'S FEES, GOVERNING LAW, VENUE, AND WAIVER OF JURY TRIAL.

In the event of any legal action between the Parties arising out of this Contract, each Party shall bear its own attorney's fees and costs. This Contract, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida. Venue for any legal action brought by any Party to this Contract to interpret, construe or enforce this Contract shall be in a court of competent jurisdiction in and for Brevard County, Florida, and the **PARTIES AGREE TO WAIVE A JURY TRIAL AND ANY TRIAL SHALL BE NON-JURY.** CONTRACTOR consents and waives any objection or defenses relating to Florida state court having jurisdiction over any dispute or claim arising out of this agreement and consents to process being served upon its Florida registered agent. CONTRACTOR expressly waives removal of any claim or action arising under this agreement to federal court.

27. MODIFICATIONS.

Contract Modifications. The terms of this Contract may be modified upon the mutual agreement of the Parties in writing executed by both Parties with the same formality as herewith.

28. ENTIRETY OF CONTRACT.

Under the terms of this Contract, all Notices to Proceed issued under this Contract, all Modifications to this Contract or Notice to Proceed, all Change Orders, and any Renewals of the Contract.

This Contract supersedes all prior agreements and negotiations respecting such matter.

29. INTERPRETATION.

Both Parties have had the opportunity to consult with legal counsel and to participate in the drafting of this Contract. Consequently, this Contract shall not be more strictly or more harshly construed against either party as the drafter.

30. SEVERABILITY.

If a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this Contract void or unenforceable, the remaining parts of this Contract shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this Contract. The Parties shall use their best efforts to rehabilitate and replace the unenforceable provision or provisions of this Contract with lawful terms and conditions approximating the original intent of the Parties.

31. FURTHER ASSURANCES.

Each Party, without further consideration, shall take such action, execute and deliver such documents as the other may reasonably request to correct or effectuate the purpose of this Contract.

32. COUNTERPARTS AND AUTHORITY.

This Contract may be executed in counterparts all of which, taken together, shall constitute one and the same Contract. Each party represents that the person signing on its behalf has been fully authorized by all required action to sign on behalf of and to bind that party to the obligations stated herein.

IN WITNESS WHEREOF, on the date last signed below, the Parties have caused this Contract to be executed by their duly authorized representatives.

ATTEST:

BREVARD COUNTY, FLORIDA

Rachel Sadoff, Clerk of the Court

By: _____
Rob Feltner, Chairman

Date: _____

Reviewed for legal form and content
solely for Brevard County:

Assistant County Attorney

[INSERT LEGAL NAME OF CONTRACTOR]

By: _____
(Signatory Name and Title)

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 202_ by (name of officer or agent, title of officer or agent) of (name of corporation acknowledging), a (state or place of incorporation) corporation, on behalf of the corporation. He/she is personally known to me or has produced _____ as identification.

[Notary Seal]

Notary Public Signature

Name typed, printed or stamped

My Commission Expires: _____

Attachment A
Fee and Warranty

Fee

CB&A offers a firm, fixed price of \$36,500, which includes all the expenses we will incur. The only other expenses the County will incur are those associated with bringing the finalists (and spouses, if invited) to interview with the County (travel, meals, hotel etc.). Bills will be rendered as the search progresses and due at the end of each Phase as indicated below:

Requested Services	
Phase I: Needs Analysis / Information Gathering	\$ 4,000
Phase II: Recruiting	16,000
Phase III: Screening	14,000
Phase IV: Interview Process Coordination, Selection, and Negotiation	2,500
Firm, Fixed Fee Total	\$36,500

If the County asks us to perform work that is clearly beyond the scope of this proposal, it will be billed at a rate of \$200 per hour. No such work will be performed without your written authorization. Please note, as previously stated, that we have never billed nor requested additional funds beyond our originally quoted fee – even when circumstances suggested we were entitled to them and where the work we performed extended beyond the scope of our assignment.

Attachment B

Requested Services

The Consultant shall provide the following services as a minimum, but not be limited to:

- A. Weekly activity reports summarizing and detailing the progress of the candidate search. The Consultant shall agree to respond immediately to all inquiries from the Board regarding the progress of the candidate search.
- B. Meeting with each County Commissioner individually and then collectively at a Board Workshop to:
 - 1) Develop and establish the background, education, training, experience, knowledge, skills, abilities, management style, and other appropriate characteristics desired for the County Manager position.
 - 2) Develop and establish the screening, interview, and selection process to be utilized for selecting a County Manager from the list of finalists.
- C. Developing a strategy to accomplish the recruitment, including outreach to qualified candidates who might not otherwise express an interest, whether currently employed or not, to encourage applicants from diverse backgrounds to apply. Recruitment should utilize services provided by, but not limited to, the National Association of Counties (NACO), International City/County Management Association (ICMA), and any additional appropriate venues identified by the Consultant.
- D. Review all applicants' resumes for background and qualifications to identify candidates who present the most promising qualifications for the position.
- E. Provide each county commissioner a complete listing and copies of resumes of all candidates applying for or expressing interest in the County Manager position.
- F. Based upon a majority vote of the County Commission, adding any additional candidates identified by the County Commission to the shortlist for further evaluation and screening, as outlined in Sections 2.G. through 2.J. of this Request for Proposal.
- G. Conduct interviews (by phone, video conference, or in person) with the candidates to clarify each applicant's qualifications and prepare a written summary of each candidate.
- H. Further evaluation of the candidates, including review of the interview results and conducting in-depth reference checks with individuals who are or have

been in positions of comparable responsibility and scope, is needed to evaluate their performance and produce a list of qualifying candidates.

- I. Verify the educational background of the Board's selected candidates and conduct criminal, financial, newspaper, social media, and civil litigation checks.
- J. In the event that politically sensitive or potentially embarrassing issues arise in the candidate's background, the Consultant shall conduct in-depth interviews with the principal parties to clarify the event and clearly describe it to the Board.
- K. Finalize a process with the Board for interviews and identify additional candidates if necessary.
- L. Meeting with the Board following interviews and identifying additional candidates if necessary.
- M. Notify non-selected applicants and candidates in writing and provide a copy to the Board.

Consultant's Role

- A. Upon receipt of the official Notice to Proceed, the Consultant shall coordinate a time to get direction from the Board of County Commissioners ("the Board") and finalize the process to conduct a nationwide search for a candidate for the County Manager position.
- B. The Consultant shall complete initial interviews and reference checks of the top candidates.
- C. After the top candidates' initial interviews and reference checks, the Consultant shall conduct in-depth background checks on the candidates who merit the most consideration and present summaries of their qualifications and related information to the Board.
- D. The Consultant shall finalize the process for interviews to be held by the Board, coordinate candidate interviews, and brief the Board as necessary.