

AUCTIONEER SERVICES CONTRACT

This is a Contract entered into by and between the **BOARD OF COUNTY COMMISSIONER OF BREVARD COUNTY**, a political subdivision of the State of Florida, hereinafter referred to as COUNTY and RENE' BATES AUCTIONEERS, INC. hereinafter referred to as CONTRACTOR.

WHEREAS, the COUNTY is desirous of obtaining the services of an experienced, knowledgeable and qualified company to provide on-line auctioneer services in accordance with all applicable federal, state, and local laws, rules and regulations, and

WHEREAS, the pursuant to a competitive bidding and selection process by The Local Government Purchasing Cooperative, a Texas-based Service Cooperative, executed Contract #620-20, Rene' Bates Auctioneers, Inc entered into a contract for on-line auctioneer services, which is attached hereto and incorporated herein as "Exhibit A" (BuyBoard Contract); and

WHEREAS, the COUNTY desires to receive on-line auctioneer services from Rene' Bates Auctioneers, Inc.; and

WHEREAS, the provision of such services shall mutually benefit the parties hereto and the residents of Brevard County, Florida.

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, the COUNTY and CONTRACTOR hereby agree as follows:

Section 1. Description of Services and Payment.

The Contract between BuyBoard and Rene' Bates Auctioneers, Inc., entered into on September 01, 2020, including any attachments, exhibits, amendments or renewals to the same, is attached hereto and incorporated by referenced as "Exhibit A." The COUNTY shall pay the CONTRACTOR pursuant to the terms listed on the Commission Fee Schedule of the Contract.

Section 2. Mutually Agreed Upon Amendments.

The COUNTY and CONTRACTOR mutually agree to adopt the definitions, terms and conditions of "Exhibit A" and further amend the following definitions, terms, and conditions of "Exhibit A" as follows:

- A. All references to the "BuyBoard Cooperative Purchasing" or "BuyBoard" found within "Exhibit A" shall for the purposes of this Contract be replaced with the words "Board of County Commissioners of Brevard County, Florida" or "COUNTY."
- B. The term of this Contract shall be from the effective date until September 01, 2021, unless terminated beforehand as provided for in this Contract or if the BuyBoard Contract is terminated before that date. The County reserves the right to extend the contract for two (2) additional one (1) year terms, providing all terms, conditions and

specifications remain the same, both parties agree to the extension, and such extension is approved by the County and the BuyBoard Contract is also similarly extended. The term of this Contract shall not extend beyond the term of the BuyBoard Contract.

- C. The insurance certificates required on Page 9 of the BuyBoard Contract shall be provided to the COUNTY by certified mail to: Brevard County Purchasing Department, 2725 Judge Fran Jamieson Way, Building C, Suite C303, Viera, Florida 32940.

Section 3. Employment Eligibility Verification (E-Verify).

A. The CONTRACTOR:

- (1) shall utilize the United States 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
 - (2) shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the United States Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract; and
 - (3) 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 the Contractor's enrollment in the program. This includes maintaining a copy of proof of the Contractor's and subcontractors' enrollment in the E-Verify Program.
- B. 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.
- C. 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.
- D. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.

Section 4. Public Records.

- A. The COUNTY or any of its duly authorized representatives reserves the right to audit the records of the CONTRACTOR related to this Contract at any time during the prosecution

of the work included herein and for a period of five (5) years after final payment is made.

- B. Both parties understand that Brevard County is subject to the Florida Public Records Law, Chapter 119, Florida Statutes. "Public Records" are defined "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Fla. Stat. 119.011(12).
- C. Pursuant to Florida Statute Chapter 119, generally, and 119.0701 specifically, if records created by the COUNTY or the CONTRACTOR related to the performance of the services under this Contract do not fall under a specific exemption under Florida or federal law, the records - whether created or maintained by the CONTRACTOR or the COUNTY- must be provided to anyone making a public records request. It will be the CONTRACTOR'S duty to identify any information in records created by the CONTRACTOR which it deems is exempt under Florida or federal law and identify the statute number which requires the information be held exempt.
- D. A request to inspect or copy public records relating to this Contract must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the CONTRACTOR of the request, and the CONTRACTOR must 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 pursuant to Florida Statute Chapter 119 and Brevard County Board Policy. Should any person or entity make a public records request of the COUNTY which requires or would require the COUNTY to allow inspection or provide copies of records which the CONTRACTOR maintains are exempt under the Public Records Law or otherwise confidential, it shall be the CONTRACTOR'S obligation to provide the County within a reasonable time of notification by the COUNTY to the CONTRACTOR of the records request, of the specific exemption or confidentiality provision to allow the County to comply with the requirements of Florida Statute 119.07(1)(e) and (f). Should the County face any kind of legal action to require or enforce inspection or production of any records provided by the CONTRACTOR to the County which the CONTRACTOR maintains are exempt or confidential from such inspection/production as a public record, the CONTRACTOR shall hire and compensate attorney(s) who shall represent the interests of the County as well as the CONTRACTOR in defending such action. The CONTRACTOR shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to Fla. Stat. 119.12.
- E. Should the CONTRACTOR fail to provide the public records to the COUNTY within a reasonable time, the CONTRACTOR is subject to penalties under s. 119.10.

- F. The CONTRACTOR shall ensure that all public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following completion of the Contract if the CONTRACTOR does not transfer the records to the COUNTY.
- G. 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. 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.

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 (321) 617-7390, Katherine.Williams@brevardfl.gov:

Katherine Williams
Central Services Department Records Custodian
2725 Judge Fran Jamieson Way
Building C, Suite C303 Viera, Florida 32940.

Section 5. Notices.

- A. All notices required or permitted under this Contract shall be in writing and shall be deemed sufficiently served if sent in a manner requiring a signed receipt of delivery, such as Federal Express, courier delivery, or if mailed, Registered or Certified mail, return receipt requested, in any case addressed as follows:
 - (1) To the COUNTY at the following address:

Purchasing Department, Director
2725 Judge Fran Jamieson Way
Building C, Suite 303
Viera, Florida 32940

- (2) To CONTRACTOR at the following address:

Rene' Bates Auctioneers, Inc.
Attn: Sheryl Bates
4660 County Road 1006
McKinney, Texas 75071-6614

- B. Either party may at any time designate a different address by giving written notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

Section 6. Negotiated Contract.

This Contract reflects the negotiation and agreement of the parties. Nothing contained herein shall be interpreted, by implication or otherwise, as inuring to the benefit or the disadvantage of one party in the absence of such mutual negotiation and agreement.

Section 7. Venue

Venue for any legal action 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 any trial shall be non-jury.

Section 8. Scrutinized Companies

- A. CONTRACTOR certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., 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 the boycott of Israel during the term of this Contract.
- B. If this Contract is for more than one million dollars, the CONTRACTOR 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, F.S. Pursuant to Section 287.135, F.S., 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 this Contract.

- C. The CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Contract.
- D. As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

Section 9. Equal Opportunity Employment.

During the performance of this Contract, the CONTRACTOR agrees as follows:

- A. The CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, religion, color, national origin, sex, or age. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, color, nation origin, sex, or age. Such action shall include, but not be limited to employment, upgrading, demotion or transfer; recruitment or recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The CONTRACTOR agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this non-discrimination clause.
- B. The CONTRACTOR shall, in all solicitations or advertisements for employees placed by or on behalf of CONTRACTOR, state that all qualified applicants shall receive consideration for employment without regard to race, religion, color, national origin, sex or age.

Section 10. Assignment.

The COUNTY and the CONTRACTOR each bind itself 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; and neither the COUNTY nor the CONTRACTOR shall assign nor transfer their interest in this Contract without the prior written consent of the other party.

Section 11. Claims for Services.

No claim for services rendered by CONTRACTOR not specifically provided for in this Contract will be honored by the COUNTY.

Section 12. Severability.

If any of the provisions contained in this Contract are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision, and this Contract shall be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.

Section 13. Public Entity Crimes.

The CONTRACTOR hereby warrants and represents that the execution of this Contract by CONTRACTOR will not violate any provision in Section 287.131 through 287.133, Florida Statutes, pertaining to public entity crimes.

Section 14. Contract Documents Contain All Terms.

This Contract and all documents incorporated by reference contain all the terms and conditions agreed upon by the parties hereto, and no other agreement, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind any of the parties hereto, or to vary any of the terms contained herein.

In Witness Whereof, the parties hereunto have caused this Contract to be executed by its duly authorized representatives, effective as of the last date below.

ATTEST:

Board of County Commissioners of
Brevard County, Florida

Scott Ellis, Clerk

By: _____
Brian Andrew Lober, Chair

Date signed _____

As Approved by the Board on _____.

Reviewed for legal form and content:

Christine Valliere
Christine Valliere
Assistant County Attorney

Rene Bates Auctioneers, Inc.

By: Sheryl Bates
Signature

By: Sheryl Bates - President
Printed name and title

Date: 8-26-2020