

SERVICES AGREEMENT

THIS SERVICES AGREEMENT ("Agreement") is made as of this ____ day of ____, 201 ____ ("Effective Date"), by and between Pinellas County, a political subdivision of the State of Florida ("County"), and Personnel Solutions Plus, LLC, Tampa, FL ("Contractor" or "PSP") (individually, "Party," collectively, "Parties").

WITNESSETH:

WHEREAS, the County requested proposals pursuant to 167-0388-P(JA) ("RFP") for temporary staffing services; and

WHEREAS, based upon the County's assessment of Contractor's proposal, the County selected the Contractor to provide the Services as defined herein; and

WHEREAS, Contractor represents that it has the experience and expertise to perform the Services as set forth in this Agreement.

NOW, THEREFORE, in consideration of the above recitals, the mutual covenants, agreements, terms and conditions herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby mutually acknowledged, the Parties agree as follows:

1. Definitions.

A. "Agreement" means this Agreement, including all Exhibits, which are expressly incorporated herein by reference, and any amendments thereto.

B. "County Confidential Information" means any County information deemed confidential and/or exempt from Section 119.07, Florida Statutes, and Section 24(a), Article 1 of the Florida Constitution, or other applicable law, and any other information designated in writing by the County as County Confidential Information.

C. "Contractor Confidential Information" means any Contractor information that is designated as confidential and/or exempt by Florida's public records law, including information that constitutes a trade secret pursuant to Chapter 688, Florida Statutes, and is designated in this Agreement or in writing as a trade secret by Contractor (unless otherwise determined to be a public record by applicable Florida law). Notwithstanding the foregoing, Contractor Confidential Information does not include information that: (i) becomes public other than as a result of a disclosure by the County in breach of the Agreement; (ii) becomes available to the County on a non-confidential basis from a source other than Contractor, which is not prohibited from disclosing such information by obligation to Contractor; (iii) is known by the County prior to its receipt from Contractor without any obligation or confidentiality with respect thereto; or (iv) is developed by the County independently of any disclosures made by Contractor.

D. "Contractor Personnel" means all employees of Contractor, and all employees of subcontractors of Contractor, including, but not limited to temporary and/or leased employees, who are providing the Services at any time during the project term.

E. "Services" means the work, duties and obligations to be carried out and performed safely by Contractor under this Agreement, as described throughout this Agreement and as specifically described in Exhibit A ("Statement of Work") attached hereto and incorporated herein by reference. As used in this Agreement, Services shall include any component task, subtask, service, or function inherent, necessary, or a customary part of the Services, but not specifically described in this Agreement, and shall include the provision of all standard day-to-day administrative, overhead, and internal expenses, including costs of bonds and insurance as required herein, labor, materials, equipment, safety equipment, products, office supplies, consumables, tools, postage, computer hardware/software, telephone charges, copier usage, fax charges, travel, lodging, and per diem and all other costs required to perform Services except as otherwise specifically provided in this Agreement.

2. Conditions Precedent. This Agreement, and the Parties' rights and obligations herein, are contingent upon and subject to the Contractor securing and/or providing the performance security, if required in Section 3, and the insurance coverage(s) required in Section 13, within ten (10) days of the Effective Date. No Services shall be performed by the Contractor and the County shall not incur any obligations of any type until Contractor satisfies these conditions. Unless waived in writing by the County, in the event the Contractor fails to satisfy the conditions precedent within the time required herein, the Agreement shall be deemed not to have been entered into and shall be null and void.

3. Services.

A. Services. The County retains Contractor, and Contractor agrees to provide the Services. All Services shall be performed to the satisfaction of the County, and shall be subject to the provisions and terms contained herein and the Exhibits attached hereto.

B. Services Requiring Prior Approval. Contractor shall not commence work on any Services requiring prior written authorization in the Statement of Work without approval from the Director of Human Resources or designee.

C. Additional Services. From the Effective Date and for the duration of the project, the County may elect to have Contractor perform Services that are not specifically described in the Statement of Work attached hereto but are related to the Services ("Additional Services"), in which event Contractor shall perform such Additional Services for the compensation specified in the Statement of Work attached hereto. Contractor shall commence performing the applicable Additional Services promptly upon receipt of written approval as provided herein.

D. De-scoping of Services. The County reserves the right, in its sole discretion, to de-scope Services upon written notification to the Contractor by the County. Upon issuance and receipt of the notification, the Contractor and the County shall enter into a written amendment reducing the appropriate Services Fee for the impacted Services by a sum equal to the amount associated with the de-scoped Services as defined in the payment schedule in this Agreement, if applicable, or as determined by mutual written consent of both Parties based upon the scope of work performed prior to issuance of notification.

E. Independent Contractor Status and Compliance with the Immigration Reform and Control Act. Contractor is and shall remain an independent contractor and is neither agent, employee, partner, nor joint venture of County. Contractor acknowledges that it is responsible for complying with the provisions of the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et seq, and regulations relating thereto, as either may be amended from time to time. Failure to comply with the above provisions shall be considered a material breach of the Agreement.

F. Non-Exclusive Services. This is a non-exclusive Agreement. During the term of this Agreement, and any extensions thereof, the County reserves the right to contract for another provider for similar services as it determines necessary in its sole discretion.

G. Project Monitoring. During the term of the Agreement, Contractor shall cooperate with the County, either directly or through its representatives, in monitoring Contractor's progress and performance of this Agreement.

4. Term of Agreement.

A. Initial Term. The term of this Agreement shall commence on April 1, 2017 and shall remain in full force and effect for sixty (60) months, or until termination of the Agreement in accordance with its terms, whichever occurs first.

5. Compensation and Method of Payment.

A. Services Fee. As total compensation for the Services, the County shall pay the Contractor the sums as provided in this Section 5 ("Services Fee"), pursuant to the terms and conditions as provided in this Agreement. It is acknowledged and agreed by Contractor that this compensation constitutes a limitation upon County's obligation to compensate Contractor for such Services required by this Agreement, but does not constitute a limitation upon Contractor's obligation to perform all of the Services required by this Agreement. In no event

will the Services Fee paid exceed the not-to-exceed sums set out in subsections 5.B. and C., unless the Parties agree to increase this sum by written amendment as authorized in Section 21 of the Agreement.

The County agrees to pay the Contractor the annual not-to-exceed sum of \$3,600,000.00 (three million six hundred thousand dollars), for Services completed and accepted as provided in Section 15 herein if applicable, payable as set out in Exhibit C, upon submittal of an invoice as required herein.

B. Travel Expenses. The Services Fee includes all travel, lodging and per diem expenses incurred by Contractor in performing the Services. Contractor shall not be entitled to any additional compensation for such expense.

C. Taxes. Contractor acknowledges that the County is not subject to any state or federal sales, use, transportation and certain excise taxes.

D. Payments. Contractor shall submit invoices for payments due as provided herein and authorized reimbursable expenses incurred with such documentation as required by County. Invoices shall be submitted to the designated person as set out in Section 18 herein.

For time and materials Services, all Contractor Personnel shall maintain logs of time worked, and each invoice shall state the date and number of hours worked for Services authorized to be billed on a time and materials basis. All payments shall be made in accordance with the requirements of Section 218.70 et seq., Florida Statutes, "The Local Government Prompt Payment Act." The County may dispute any payments invoiced by Contractor in accordance with the County's Invoice Payments Dispute Resolution Process established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

6. Personnel.

A. Qualified Personnel. Contractor agrees that each person performing Services in connection with this Agreement shall have the qualifications and shall fulfill the requirements set forth in this Agreement.

B. Approval and Replacement of Personnel. The County shall have the right to approve all Contractor Personnel assigned to provide the Services, which approval shall not be unreasonably withheld. The County, on a reasonable basis, shall have the right to require the removal and replacement of any of the Contractor Personnel performing Services, at any time during the term of the Agreement. The County will notify Contractor in writing in the event the County requires such action. Contractor shall accomplish any such removal within the time specified by the County. In situations where individual Contractor Personnel are prohibited by applicable law from providing Services, or due to unacceptable behavior, removal shall be immediate and replacement shall take place within the time specified by the County and the provisions of Section 7. A.1. shall apply if minimum required staffing is not maintained.

7. Termination.

A. Contractor Default Provisions and Remedies of County.

1. Events of Default. Any of the following shall constitute a "Contractor Event of Default" hereunder: (i) Contractor fails to maintain the staffing necessary to perform the Services as required in the Agreement, fails to perform the Services as specified in the Agreement, or fails to complete the Services within the completion dates as specified in the Agreement; (ii) Contractor breaches Section 9 (Confidential Information); (iii) Contractor fails to gain acceptance of a deliverable per Section 15, if applicable, for two (2) consecutive iterations; or (iv) Contractor fails to perform or observe any of the other material provisions of this Agreement.

2. Cure Provisions. Upon the occurrence of a Contractor Event of Default as set out above, the County shall provide written notice of such Contractor Event of Default to Contractor ("Notice to Cure"), and Contractor shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the Contractor Event of Default described in the written notice.

3. Termination for Cause by the County. In the event that Contractor fails to cure a Contractor Event of Default as authorized herein, or upon the occurrence of a Contractor Event of Default as specified in Section 7.A.1.(iii), the County may terminate this Agreement in whole or in part, effective upon receipt by Contractor of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the County.

B. County Default Provisions and Remedies of Contractor.

1. Events of Default. Any of the following shall constitute a "County Event of Default" hereunder: (i) the County fails to make timely undisputed payments as described in this Agreement; (ii) the County breaches Section 9 (Confidential Information); or (iii) the County fails to perform any of the other material provisions of this Agreement.

2. Cure Provisions. Upon the occurrence of a County Event of Default as set out above, Contractor shall provide written notice of such County Event of Default to the County ("Notice to Cure"), and the County shall have thirty (30) calendar days after the date of a Notice to Cure to correct, cure, and/or remedy the County Event of Default described in the written notice.

3. Termination for Cause by Contractor. In the event the County fails to cure a County Event of Default as authorized herein, Contractor may terminate this Agreement in whole or in part effective on receipt by the County of written notice of termination pursuant to this provision, and may pursue such remedies at law or in equity as may be available to the Contractor.

C. Termination for Convenience. Notwithstanding any other provision herein, the County may terminate this Agreement, without cause, by giving thirty (30) days advance written notice to the Contractor of its election to terminate this Agreement pursuant to this provision.

8. Time is of the Essence. Time is of the essence with respect to all provisions of this Agreement that specify a time for performance, including the Services as described in Exhibits attached hereto; provided, however, that the foregoing shall not be construed to limit a Party's cure period allowed in the Agreement.

9. Confidential Information and Public Records.

A. County Confidential Information. Contractor shall not disclose to any third party County Confidential Information that Contractor, through its Contractor Personnel, has access to or has received from the County pursuant to its performance of Services pursuant to the Agreement, unless approved in writing by the County Contract Manager. All such County Confidential Information will be held in trust and confidence from the date of disclosure by the County, and discussions involving such County Confidential Information shall be limited to Contractor Personnel as is necessary to complete the Services.

B. Contractor Confidential Information. All Contractor Confidential Information received by the County from Contractor will be held in trust and confidence from the date of disclosure by Contractor and discussions involving such Contractor Confidential Information shall be limited to the members of the County's staff and the County's subcontractors who require such information in the performance of this Agreement. The County acknowledges and agrees to respect the copyrights, registrations, trade secrets and other proprietary rights of Contractor in the Contractor Confidential Information during and after the term of the Agreement and shall at all times maintain the confidentiality of the Contractor Confidential Information provided to the County, subject to federal law and the laws of the State of Florida related to public records disclosure. Contractor shall be solely responsible for taking any and all action it deems necessary to protect its Contractor Confidential Information except as provided herein. Contractor acknowledges that the County is subject to public records legislation, including but not limited to Chapter 119, Florida Statutes, and the Florida Rules of Judicial Administration, and that any of the County's obligations under this Section may be superseded by its obligations under any requirements of said laws.

C. Public Records. Contractor acknowledges that information and data it manages as part of the services may be public records in accordance with Chapter 119, Florida Statutes and Pinellas County public records policies. Contractor agrees that prior to providing services it will implement policies and procedures to maintain, produce, secure, and retain public records in accordance with applicable laws, regulations, and County policies, including

but not limited to the Section 119.0701, Florida Statutes. Notwithstanding any other provision of this Agreement relating to compensation, the Contractor agrees to charge the County, and/or any third parties requesting public records only such fees allowed by Section 119.07, Florida Statutes, and County policy for locating and producing public records during the term of this Agreement.

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 Pinellas County Board of County Commissioners, Purchasing Department, Operations Manager custodian of public records at 727-464-3311, purchase@pinellascounty.org, Pinellas County Government, Purchasing Department, Operations Manager, 400 S. Ft. Harrison Ave, 6th Floor, Clearwater, FL 33756.

10. Audit. Contractor shall retain all records relating to this Agreement for a period of at least three (3) years after final payment is made. All records shall be kept in such a way as will permit their inspection pursuant to Chapter 119, Florida Statutes. In addition, County reserves the right to examine and/or audit such records.

11. Compliance with Laws.

Contractor shall comply with all applicable federal, state, county and local laws, ordinances, rules and regulations in the performance of its obligations under this Agreement, including the procurement of permits and certificates where required, and including but not limited to laws related to Workers Compensation, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Minority Business Enterprise (MBE), occupational safety and health and the environment, equal employment opportunity, privacy of medical records and information, as applicable. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

12. Public Entities Crimes

Contractor is directed to the Florida Public Entities Crime Act, Section 287.133, Florida Statutes, as well as Florida Statute 287.135 regarding Scrutinized Companies, and represents to County that Contractor is qualified to transact business with public entities in Florida, and to enter into and fully perform this Agreement subject to the provisions state therein. Failure to comply with any of the above provisions shall be considered a material breach of the Agreement.

13. Liability and Insurance.

- A. **Insurance.** Contractor shall comply with the insurance requirements set out in Exhibit B, attached hereto and incorporated herein by reference.
- B. **Indemnification.** Contractor agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents, and any and all other Employers receiving individuals placed under this Agreement and those Employer' officers, employees and agents, from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Contractor; or by, or on account of, any claim or amounts recovered under the Workers' Compensation Law or of any other laws, regulations, ordinance, order or decree; or arising from or by reason of any actual or claimed trademark, patent or copyright infringement or litigation based thereon; or any damages, suits, actions or claims by any individuals placed hereunder, including, but not limited to, those arising out of the employment relationship between Contractor and placed individuals; except only such injury or damage as shall have been occasioned by the sole negligence of the County.
- C. **Liability.** Neither the County nor Contractor shall make any express or implied agreements, guaranties or representations, or incur any debt, in the name of or on behalf of the other Party. Neither the County nor Contractor shall be obligated by or have any liability under any agreements or representations made by the other that are not expressly authorized hereunder. The County shall have no liability or obligation for any

damages to any person or property directly or indirectly arising out of the operation by Contractor of its business, whether caused by Contractor's negligence or willful action or failure to act.

D. **Contractor's Taxes.** The County will have no liability for any sales, service, value added, use, excise, gross receipts, property, workers' compensation, unemployment compensation, withholding or other taxes, whether levied upon Contractor or Contractor's assets, or upon the County in connection with Services performed or business conducted by Contractor. Payment of all such taxes and liabilities shall be the responsibility of Contractor.

14. **County's Funding.** The Agreement is not a general obligation of the County. It is understood that neither this Agreement nor any representation by any County employee or officer creates any obligation to appropriate or make monies available for the purpose of the Agreement beyond the fiscal year in which this Agreement is executed. No liability shall be incurred by the County, or any department, beyond the monies budgeted and available for this purpose. If funds are not appropriated by the County for any or all of this Agreement, the County shall not be obligated to pay any sums provided pursuant to this Agreement beyond the portion for which funds are appropriated. The County agrees to promptly notify Contractor in writing of such failure of appropriation, and upon receipt of such notice, this Agreement, and all rights and obligations contained herein, shall terminate without liability or penalty to the County.

15. **Acceptance of Services.** For all Services deliverables that require County acceptance as provided in the Statement of Work, the County, through the Director of Human Resources or designee, will have ten (10) calendar days to review the deliverable(s) after receipt or completion of same by Contractor, and either accept or reject the deliverable(s) by written notice to Personnel Solutions Plus, LLC. If a deliverable is rejected, the written notice from the County will specify any required changes, deficiencies, and/or additions necessary. Contractor shall then have seven (7) calendar days to revise the deliverable(s) to resubmit and/or complete the deliverable(s) for review and approval by the County, who will then have seven (7) calendar days to review and approve, or reject the deliverable(s); provided however, that Contractor shall not be responsible for any delays in the overall project schedule that result from the County's failure to timely approve or reject deliverable(s) as provided herein. Upon final acceptance of the deliverable(s), the County will accept the deliverable(s) in writing.

16. **Subcontracting/Assignment.**

A. **Subcontracting.** Contractor is fully responsible for completion of the Services required by this Agreement and for completion of all subcontractor work, if authorized as provided herein. Contractor shall not subcontract any work under this Agreement to any subcontractor other than the subcontractors specified in the proposal and previously approved by the County, without the prior written consent of the County, which shall be determined by the County in its sole discretion.

B. **Assignment.** This Agreement, and any rights or obligations hereunder, shall not be assigned, transferred or delegated to any other person or entity. Any purported assignment in violation of this section shall be null and void.

17. **Survival.** The following provisions shall survive the expiration or termination of the Term of this Agreement: 7, 9, 10, 13 20, 23, and any others which by their nature would survive termination.

18. **Notices.** All notices, authorizations, and requests in connection with this Agreement shall be deemed given on the day they are: (1) deposited in the U.S. mail, postage prepaid, certified or registered, return receipt requested; or (2) sent by air express courier (e.g., Federal Express, Airborne, etc.), charges prepaid, return receipt requested; or (iii) sent via email and addressed as set forth below, which designated person(s) may be amended by either Party by giving written notice to the other Party:

For County:

Attn: Diane Conroy
Human Resources Dept.
400 S. Ft. Harrison, 1st Floor
Clearwater, FL 33756

For Contractor:

Attn: Sally Furkin, Operations Manager
Personnel Solutions Plus, LLC
7225 W. Hillsborough Ave.
Tampa, FL 33634

with a copy to:
Purchasing Director
Pinellas County Purchasing Department
400 South Fort Harrison Avenue
Clearwater, FL 33756

19. Conflict of Interest.

- A. The Contractor represents that it presently has no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance of the Services required hereunder, and that no person having any such interest shall be employed by Contractor during the agreement term and any extensions.
- B. The Contractor shall promptly notify the County in writing of any business association, interest, or other circumstance which constitutes a conflict of interest as provided herein. If the Contractor is in doubt as to whether a prospective business association, interest, or other circumstance constitutes a conflict of interest, the Contractor may identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion as to whether the business association, interest or circumstance constitutes a conflict of interest if entered into by the Contractor. The County agrees to notify the Contractor of its opinion within (10) calendar days of receipt of notification by the Contractor, which shall be binding on the Contractor.

20. Right to Ownership. All work created, originated and/or prepared by Contractor in performing Services pursuant to the Agreement, including work completed by Contractor Personnel pursuant to this Agreement, and other documentation or improvements related thereto, to the extent that such work, products, documentation, materials or information are described in or required by the Services (collectively, the "Work Product") shall be County's property when completed and accepted, if acceptance is required in this Agreement, and the County has made payment of the sums due therefor. The ideas, concepts, know-how or techniques developed during the course of this Agreement by the Contractor or jointly by Contractor and the County may be used by the County without obligation of notice or accounting to the Contractor. Any data, information or other materials furnished by the County for use by Contractor under this Agreement shall remain the sole property of the County.

21. Amendment. This Agreement may be amended by mutual written agreement of the Parties hereto.

22. Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform.

23. Applicable Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida (without regard to principles of conflicts of laws). The Parties agree that all actions or proceedings arising in connection with this Agreement shall be tried and litigated exclusively in the state or federal (if permitted by law and a Party elects to file an action in federal court) courts located in or for Pinellas County, Florida. This choice of venue is intended by the Parties to be mandatory and not permissive in nature, and to preclude the possibility of litigation between the Parties with respect to, or arising out of, this Agreement in any jurisdiction other than that specified in this section. Each Party waives any right it may have to assert the doctrine of *forum non conveniens* or similar doctrine or to object to venue with respect to any proceeding brought in accordance with this section.

24. Waiver. No waiver by either Party of any breach or violation of any covenant, term, condition, or provision of this Agreement or of the provisions of any ordinance or law, shall be construed to waive any other term, covenant, condition, provisions, ordinance or law, or of any subsequent breach or violation of the same.

25. Due Authority. Each Party to this Agreement represents and warrants that: (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement; (ii) each person executing this Agreement on behalf of the Party is authorized to do so; (iii) this Agreement constitutes a valid and legally binding obligation of the Party, enforceable in accordance with its terms.

26. No Third Party Beneficiary. The Parties hereto acknowledge and agree that there are no third party beneficiaries to this Agreement. Persons or entities not a party to this Agreement may not claim any benefit from this Agreement or as third party beneficiaries hereto.

27. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties and supersedes all prior negotiations, representations or agreements either oral or written.

(Signature Page Follows)

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement the day and year first written.

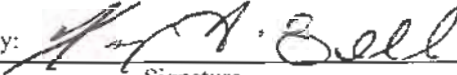
PINELLAS COUNTY, FLORIDA

By and through its

Board of County Commissioners

By _____

Personnel Solutions Plus, LLC

By: 
Signature

TOMMY A. BELL
Print Name

President
Title

ATTEST:

Ken Burke,
Clerk of the Circuit Court

By: _____

Deputy Clerk

APPROVED AS TO FORM


By: 
Office of the County Attorney

EXHIBIT A

STATEMENT OF WORK

A. CONTRACTOR REQUIREMENTS:

The Contractor is responsible for fulfilling County's staffing requests with qualified personnel within the time frames required by the County for the job classifications included herein.

PSP will be responsible for ensuring that all personnel assigned are qualified to perform the functions and duties specified in the County's request. To accomplish this, PSP shall at a minimum conduct all employment screening, testing (i.e., typing, Excel, Word, etc.), evaluations and recruitments necessary to assess personnel qualifications, as more fully set forth below or in a County request document. All pre-placement screening is to be compliant with applicable federal, state and local laws including but not limited to Title VII of the Civil Rights Act of 1964, as amended, Fair Credit Reporting Act (FCRA) and the Genetic Information Nondiscrimination Act.

Additionally, with respect to required screenings and criminal background checks, PSP will comply in all respects with the requirements stated in Fla. Stat. 435.04.

After a complete and satisfactory pre-placement screening has been conducted, a candidate will be submitted to the hiring manager identified in the request.

Employment Screening, Testing, Evaluations, Recruiting

In order to identify and place candidates responsive to a County request, PSP will, at a minimum:

1. Match job descriptions to job resumes
2. Match skills and competencies to the required job level
3. Conduct phone interview
4. Complete preliminary assessment (in person, structured panel interviews and/or video)
5. Ensure candidate completes pre-employment testing

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6. Complete verification of the candidate via prior employment/reference check, education, criminal background check, MVR history, 5- Panel drug and alcohol testing, work eligibility
7. Personnel Protective Equipment (PPE): qualified contractor personnel will arrive on the job with all required standard safety equipment, at no additional cost to the County: leather palm work gloves, safety glasses, hard hat, ear plug/muffs, and steel toed boots.
8. Safety Training Program: PSP will regularly conduct safety training programs using videos and handouts for a variety of subjects, including Hazard Communications.

Employment History Check

Before a candidate is placed at the County under this contract, PSP will confirm candidate's previous employment history via an interview with a previous supervisor who worked directly with the candidate to identify past performance and any problems that came about during the candidate's employment. PSP will also verify: job duties, performance evaluations, strengths and weaknesses, and acceptable attendance record.

Education Verification

Before a candidate is placed at the County under this contract in a specific professional and technical position, PSP will complete education verification using National Student Clearinghouse to verify education background. PSP will identify: candidate's degree/diploma/credential, graduation or completion date, major of degree, official educational accrediting body.

Criminal Background Check

PSP will conduct nation-wide background checks including but not limited to criminal history, employment, motor vehicle history, including Florida Department of Law Enforcement (FDLE) reporting. County will specify the background result standards that shall be applied in each County request for an assigned Contractor Personnel, and no person

EXHIBIT A

STATEMENT OF WORK

shall be assigned as a Contractor Personnel if their screening results do not meet the standards specified.

Background checklist will include:

- a. Complete background check ten prior to the start of an assignment, and the completed background check should not be older than twelve (12) months at the time of the start of an assignment. PSP will also promptly notify County if PSP becomes aware of additional background information or new information related to the standards of the background check that develop after the start of the assignment.
- b. Background check results shall remain on file at PSP for three (3) years from the date of last invoice.
- c. PSP will provide County a list of all assigned Contractor Personnel.

5-Panel Drug and Alcohol Testing

PSP is a drug-free workplace and recognizes County as a drug-free workplace. PSP will conduct drug and alcohol testing through a 5-Panel drug test and alcohol test for each candidate prior to placement and conduct annual follow-up checks. Drug and alcohol test results should not be older than twelve (12) months at the start of an assignment. PSP will not place, or will replace, any individual with a positive result on a drug and alcohol test.

Work Eligibility

Immigration Reform and Control Act: PSP will verify that each contractor personnel assigned under this contract is eligible to work in conformance with the Immigration Reform and Control Act of 1986 located at 8 U.S.C. 1324, et. Seq., and regulations relating thereto, as may be amended from time to time, and the Illegal Immigration Reform and Immigration Responsibility Act of 1996. Failure of PSP to comply will be deemed a material breach and shall be cause for immediate termination of the contract at the discretion of the County.

EXHIBIT A

STATEMENT OF WORK

Motor Vehicle Driving Requirements

PSP will review the Florida (or appropriate state) driver's license history record for the last four (4) years. Contractor personnel with unacceptable driving records will not be placed in positions requiring driving. Unacceptable driving records include any of the following:

- a. Any citation for DUI, or refusal to be tested for DUI, regardless if there is a conviction, a plea of guilty, or no contest plea;
- b. Any conviction for reckless or careless driving in the preceding three (3) years;
- c. Suspension or revocation of the driver's license in the preceding four (4) years. Suspension for failure to maintain PIP and comply with Child Support requirements are excluded from this suspension provision, if the suspension has been concluded;
- d. Two (2) or more moving violation convictions in the preceding three (3) years;
- e. A business purpose exemption or inter-lock device restriction in place. The record must be cleared before staff can drive a County vehicle.

County will not be responsible for driving training, but placed staff will attend the County's Risk Department training, when required. Contractor personnel will only be allowed to operate Class E Level vehicles/non-commercial vehicles. Those hired for driving positions will not be allowed to drive a commercial vehicle regardless of having a CDL license.

Contractor's Compensation of its Employees and Compliance with Laws

PSP will be responsible for payment to its employees including all payroll reporting including the withholding of income and payroll taxes. PSP's costs for any and all such requirements and/or the provision of any employee benefits it provides to its staff is its sole responsibility and the County will not increase billing rates hereunder to cover such costs. No additional costs will be passed through or separately billed to the County to cover any tax or benefit obligations of PSP to its employees.

Contractor Personnel Pay Rates:

1. Transition current temporary staff at their current rate of pay so services continue without interruption, if the department desires, effective April 1, 2018.

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2. Human Resources will work with department managers and PSP to determine a pay rate appropriate for the level of work performed by the Contractor Personnel.
3. Compensating contractors above the UPS pay plan mid-point will require approval of the Appointing Authority through the Human Resources Department.
4. The County reserves the right to implement a minimum pay rate and will provide thirty (30) day notice to PSP, of such modification to the rates.

PSP is responsible for full compliance with all federal, state and local laws relating to the employment of persons, including but not limited to, the Fair Labor Standards Act, the Family & Medical Leave Act, the Americans with Disabilities Act, and the Affordable Care Act, Title VII of the Civil Rights Act of 1964, as amended and Florida's Worker's Compensation Law.

PSP shall maintain a physical office in Pinellas County and shall not be entitled to use any County facility except upon prior agreement of the parties.

Transition

PSP is solely responsible for filling all currently-filled positions as of the start of the contract.

B. COUNTY REQUIREMENTS:

Scope of work and requirements for each position will be submitted to PSP by the requesting department through the Human Resources Department on a County request form, which may include:

1. Number of positions
2. Work site location, appointing authority, department, and supervisor name, and relevant contact details
3. EEO Classification (Administrative Support, Professional, Skilled Craft Worker, Technician, Service and Maintenance Worker)
4. Reason for request, expected duration, work schedule, start and end dates
5. Position title, duties, knowledge, skills and certifications
6. Contractor attire and equipment (business, business casual, uniform, other)

EXHIBIT A

STATEMENT OF WORK

7. Required work related equipment or PPE
8. Sensitive assignment and/or interaction with public, children, disabled persons, cash/credit card transactions, location background check (airport, sheriff's department)
9. Background and screening results standards to be applied

C. WORKING HOURS:

Working hours and days may vary depending upon department requirements. Shift work may be required, and shift differentials will not be paid by County. The County will only pay for hours actually worked. County will not pay for holidays or holiday pay. The County's designated holidays are:

New Year's Day	January 1
Martin Luther King Day	Third Monday in January
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veterans Day	November 11
Thanksgiving Day	Fourth Thursday in November and day following – Friday
Christmas	December 25

- If Christmas or New Year's Day falls on Tuesday or Thursday, the preceding Monday or following Friday will be recognized as a holiday.
- If any recognized holidays fall on a Saturday, the preceding Friday will be observed as a holiday.
- If any recognized holidays fall on a Sunday, the following Monday will be observed as a holiday.

EXHIBIT A

STATEMENT OF WORK

D. BUILDING SECURITY AND ACCESS CONTROL

All contractor personnel are required to wear picture identification badges, to be furnished by Pinellas County, while at County's various locations. Any keys or key cards issued to PSP for such use will not be duplicated by PSP or contractor personnel. PSP will make contractor personnel available for photographs on a schedule to be determined with the County's Human Resources Department.

1. Badges will be made by the County prior to an individual beginning work. Each contractor personnel shall sign his or her badge at the time of receipt.
2. PSP will notify Human Resources when a badge is lost.
3. PSP will pay to County \$10.00 per badge for any replacement badges. .
4. No Contractor Personnel will be allowed to work without a current badge. Contractor Personnel who do not display proper identification will give cause for the County to require removal of that individual from the property.
5. PSP will see that all badges are returned to County when an individual is no longer assigned under the contract.

PSP has been notified that for security purposes, all Pinellas County properties may be under video surveillance, and shall communicate this to all Contractor Personnel. The County will not be responsible for any loss of personal property by PSP or contractor personnel placed with the County.

No parking will be provided for Contractor Personnel assigned to work at the County.

E. REMOVAL OF TEMPORARY STAFF

County will be provided a 24-hour contact number to handle issues if/when they arise. PSP will remove a temporary staff from an assignment upon the County's request. Temporary staff will be escorted from the County's property as required. County will not be charged for staff incapable of performing a job assignment. The following are examples of unacceptable behaviors of PSP temporary staff, but are not all inclusive:

1. Violation of safety rules, and/or misuse of County's property

EXHIBIT A

STATEMENT OF WORK

2. Use of alcohol or controlled substances while on duty
3. Unreliable attendance.
4. Insubordination. Contractor personnel are expected to take direction from the County's department supervisor/manager and behave in a manner deemed appropriate and respectful.
5. Disrupting the work environment. Non-cooperation with co-workers will not be tolerated.

F. REPORTING

1. PSP will provide monthly and quarterly reporting of usage identified by appointing authority (as specified on the request form) and department, with the ability to determine usage within each department. Reports must include at a minimum Contractor Personnel name, start date, pay rate, number of hours worked per week, position title, location, hiring manager name and phone number as well as any other information relevant to the assignment requested by the County.
2. PSP will provide to County a monthly spend report that details each Appointing Authority's contractor personnel usage. In addition to monthly reports, PSP will also provide additional reports upon request by County.
3. All reporting shall be customizable to meet the needs of the County.

PSP is responsible for time reporting and shall monitor a variety of reports daily, reviewing and verifying contractor personnel work hours, scheduling, approving time-off requests, monitoring attendance and vacancies.

G. COUNTY HIRING

Nothing in this Agreement will limit the County's ability to hire anyone, including persons employed by PSP, at any time, and shall have no obligation to PSP in connection with any County hiring decision.

EXHIBIT B

INSURANCE REQUIREMENTS

1. INSURANCE:

- a) Proposal submittals should include, the Proposers current Certificate(s) of Insurance in accordance with the insurance requirements listed below. If Proposer does not currently meet insurance requirements, proposer/Proposer/quoter shall also include verification from their broker or agent that any required insurance not provided at that time of submittal will be in place within 10 days after award recommendation.
- b) Within 10 days of **contract award** and prior to commencement of work, Proposer shall email certificate that is compliant with the insurance requirements to InsuranceCerts@Pinellascounty.org. If certificate received with proposal was a compliant certificate no further action may be necessary. It is imperative that proposer include the unique identifier, which will be supplied by the County's Purchasing Department. The Certificate(s) of Insurance shall be signed by authorized representatives of the insurance companies shown on the Certificate(s). **A copy of the endorsement(s) referenced in paragraph 3.(d) for Additional Insured shall be attached to the certificate(s) referenced in this paragraph.**
- c) No work shall commence at any project site unless and until the required Certificate(s) of Insurance are received and approved by the County. Approval by the County of any Certificate(s) of Insurance does not constitute verification by the County that the insurance requirements have been satisfied or that the insurance policy shown on the Certificate(s) of Insurance is in compliance with the requirements of the Agreement. County reserves the right to require a certified copy of the entire insurance policy, including endorsement(s), at any time during the RFP and/or contract period.
- d) All policies providing liability coverage(s), other than professional liability and workers compensation policies, obtained by the Proposer and any subcontractors to meet the requirements of the Agreement shall be endorsed to include Pinellas County Board of County Commissioners as an Additional Insured.
- e) If any insurance provided pursuant to the Agreement expires prior to the completion of the Work, renewal Certificate(s) of Insurance and endorsement(s) shall be furnished by the Proposer to the County at least thirty (30) days prior to the expiration date.
 - (1) Proposer shall also notify County within twenty-four (24) hours after receipt, of any notices of expiration, cancellation, nonrenewal or adverse material change in coverage received by said Proposer from its insurer. Notice shall be given by certified mail to: **Pinellas County Risk Management 400 South Fort Harrison Ave Clearwater FL 33756**; be sure to include your organization's unique identifier, which will be provided upon notice of award. Nothing contained herein shall absolve Proposer of this requirement to provide notice.
 - (2) Should the Proposer, at any time, not maintain the insurance coverages required herein, the County may terminate the Agreement, or at its sole discretion may purchase such coverages necessary for the protection of the County and charge the Proposer for such purchase or offset the cost against amounts due to proposer for services completed. The County shall be under no obligation to purchase such insurance, nor shall it be responsible for the coverages purchased or the insurance company or companies used. The decision of the County to purchase such insurance shall in no way be construed to be a waiver of any of its rights under the Agreement.

EXHIBIT B

INSURANCE REQUIREMENTS

- f) The County reserves the right, but not the duty, to review and request a copy of the Contractor's most recent annual report or audited financial statement when a self-insured retention (SIR) or deductible exceeds \$50,000.
- g) If subcontracting is allowed under this RFP, the Prime Proposer shall obtain and maintain, at all times during its performance of the Agreement, insurance of the types and in the amounts set forth; and require any subcontractors to obtain and maintain, at all times during its performance of the Agreement, insurance limits as it may apply to the portion of the Work performed by the subcontractor; *but in no event will the insurance limits be less than \$500,000 for Workers' Compensation/Employers' Liability, and \$1,000,000 for General Liability and Auto Liability if required below.*

All subcontracts between Proposer and its subcontractors shall be in writing and may be subject to the County's prior written approval. Further, all subcontracts shall (1) require each subcontractor to be bound to Proposer to the same extent Proposer is bound to the County by the terms of the Contract Documents, as those terms may apply to the portion of the Work to be performed by the subcontractor; (2) provide for the assignment of the subcontracts from Proposer to the County at the election of Owner upon termination of the Contract; (3) provide that County will be an additional indemnified party of the subcontract; (4) provide that the County will be an additional insured on all insurance policies required to be provided by the subcontractor except workers compensation and professional liability; (5) provide waiver of subrogation in favor of the County and other insurance terms and/or conditions as outlined below; (6) assign all warranties directly to the County; and (7) identify the County as an intended third-party beneficiary of the subcontract. Proposer shall make available to each proposed subcontractor, prior to the execution of the subcontract, copies of the Contract Documents to which the subcontractor will be bound by this Section C and identify to the subcontractor any terms and conditions of the proposed subcontract which may be at variance with the Contract Documents.

- h) Each insurance policy and/or certificate shall include the following terms and/or conditions:
- (1) The Named Insured on the Certificate of Insurance and insurance policy must match the entity's name that responded to the solicitation and/or is signing the agreement with the County. If Proposer is a Joint Venture per Section A, titled Joint Venture of this RFP, Certificate of Insurance and Named Insured must show Joint Venture Legal Entity name and the Joint Venture must comply with the requirements of Section C with regard to limits, terms and conditions, including completed operations coverage.
 - (2) Companies issuing the insurance policy, or policies, shall have no recourse against County for payment of premiums or assessments for any deductibles which all are at the sole responsibility and risk of Contractor.
 - (3) The term "County" or "Pinellas County" shall include all Authorities, Boards, Bureaus, Commissions, Divisions, Departments and Constitutional offices of County and individual members, employees thereof in their official capacities, and/or while acting on behalf of Pinellas County.
 - (4) The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County or any such future coverage, or to County's Self-Insured Retentions of whatever nature.
 - (5) All policies shall be written on a primary, non-contributory basis.

EXHIBIT B

INSURANCE REQUIREMENTS

- (6) Any Certificate(s) of Insurance evidencing coverage provided by a leasing company for either workers compensation or commercial general liability shall have a list of covered employees certified by the leasing company attached to the Certificate(s) of Insurance. The County shall have the right, but not the obligation to determine that the Proposer is only using employees named on such list to perform work for the County. Should employees not named be utilized by Proposer, the County, at its option may stop work without penalty to the County until proof of coverage or removal of the employee by the contractor occurs, or alternatively find the Proposer to be in default and take such other protective measures as necessary.
- (7) Insurance policies, other than Professional Liability, shall include waivers of subrogation in favor of Pinellas County from both the Proposer and subcontractor(s).
- i) The minimum insurance requirements and limits for this Agreement, which shall remain in effect throughout its duration and for two (2) years beyond final acceptance for projects with a Completed Operations exposure, are as follows:

(1) Workers' Compensation Insurance

Limit	Florida Statutory
Employers' Liability Limits	
Per Employee	\$5,000,000.00
Per Employee Disease	\$5,000,000.00
Policy Limit Disease	\$5,000,000.00

(2) Commercial General Liability Insurance including, but not limited to, Independent Contractor, Contractual Liability Premises/Operations, Products/Completed Operations, and Personal Injury.

Limits	
Combined Single Limit Per Occurrence	\$1,000,000.00
Products/Completed Operations Aggregate	\$2,000,000.00
Personal Injury and Advertising Injury	\$1,000,000.00
General Aggregate	\$2,000,000.00

(3) Business Automobile or Trucker's/Garage Liability Insurance covering owned, hired, and non-owned vehicles. If the Proposer does not own any vehicles, then evidence of Hired and Non-owned coverage is sufficient. Coverage shall be on an "occurrence" basis, such insurance to include coverage for loading and unloading hazards, unless Proposer can show that this coverage exists under the Commercial General Liability policy.

Limit	
Combined Single Limit Per Accident	\$1,000,000.00

EXHIBIT B

INSURANCE REQUIREMENTS

- (4) Excess or Umbrella Liability Insurance excess of the primary coverage required, in paragraphs (1), (2), and (3) above:

Limits

Each Occurrence	\$1,000,000.00
General Aggregate	\$1,000,000.00

- (5) Professional Liability (Errors and Omissions) Insurance with at least minimum limits as follows. If "claims made" coverage is provided, "tail coverage" extending three (3) years beyond completion and acceptance of the project with proof of "tail coverage" to be submitted with the invoice for final payment. In lieu of "tail coverage", Proposer may submit annually to the County, for a three (3) year period, a current certificate of insurance providing "claims made" insurance with prior acts coverage in force with a retroactive date no later than commencement date of this contract.

Limits

Each Occurrence or Claim	\$1,000,000.00
General Aggregate	\$1,000,000.00

For acceptance of Professional Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Professional Liability and other coverage combined.

- (6) Cyber Risk Liability (Network Security/Privacy Liability) Insurance including cloud computing and mobile devices, for protection of private or confidential information whether electronic or non-electronic, network security and privacy; privacy against liability for system attacks, digital asset loss, denial or loss of service, introduction, implantation or spread of malicious software code, security breach, unauthorized access and use; including regulatory action expenses; and notification and credit monitoring expenses with at least minimum limits as follows:

Limits

Each Occurrence	\$1,000,000.00
General Aggregate	\$1,000,000.00

For acceptance of Cyber Risk Liability coverage included within another policy required herein, a statement notifying the certificate holder must be included on the certificate of insurance and the total amount of said coverage per occurrence must be greater than or equal to the amount of Cyber Risk Liability and other coverage combined.

- (7) Crime/Fidelity/Financial Institution Insurance coverage shall include Clients' Property endorsement similar or equivalent to ISO form CR 04 01, with at least minimum limits as follows:

Limits

EXHIBIT B

INSURANCE REQUIREMENTS

Each Occurrence	\$1,000,000.00
General Aggregate	\$1,000,000.00

- (8) Property Insurance Proposer will be responsible for all damage to its own property, equipment and/or materials.

EXHIBIT D

PAYMENT/INVOICES

PSP shall be compensated based upon the EEO categories and multiplier rates as shown below. At the time a County request is fulfilled, PSP and County shall agree upon an acceptable rate of compensation for the Contractor Personnel's time, and Contractor shall invoice and be paid for hours worked based on that rate and multiplied by the applicable rate below:

<u>Category</u>	<u>PSP</u>
A. Professionals	33%
B. Technicians	40%
C. Administrative Support	33%
D. Skilled Craft Workers	40%
E. Service & Maintenance Workers	40%

Rates and corresponding multipliers paid to PSP are inclusive of all costs and overhead including, but not limited to, current and all future governmental mandates.

Contractor shall not invoice for, and County shall not pay, any increased billing amount resulting from overtime due to Contractor's employees unless: pre-approved by the County Department Director; verified on Contractor's employee's timesheet; signed off by the County Department Director; and required under the Fair Labor Standards Act.

EXHIBIT D

PAYMENT/INVOICES

PAYMENT/INVOICES:

SUPPLIER shall submit invoices for payment due as provided herein with such documentation as required by Pinellas County and all payments shall be made in accordance with the requirements of Section 218.70 *et. seq*, Florida Statutes, "The Local Government Prompt Payment Act." Invoices shall be submitted to the address below unless instructed otherwise on the purchase order, or if no purchase order, by the ordering department:

Finance Division Accounts Payable
 Pinellas County Board of County Commissioners
 P. O. Box 2438
 Clearwater, FL 33757

Each invoice shall include, at a minimum, the Supplier's name, contact information, the standard purchase order number, contractor name, location, days worked and number if hours worked each day. In order to expedite payment, it is recommended the Supplier also include the information shown in below. The County may dispute any payments invoiced by SUPPLIER in accordance with the County's Dispute Resolution Process for Invoiced Payments, established in accordance with Section 218.76, Florida Statutes, and any such disputes shall be resolved in accordance with the County's Dispute Resolution Process.

INVOICE INFORMATION:

Supplier Information Company name, mailing address, phone number, contact name and email address as provided on the PO

Remit To	Billing address to which you are requesting payment be sent
Invoice Date	Creation date of the invoice
Invoice Number	Company tracking number
Shipping Address	Address where goods and/or services were delivered
Ordering Department	Name of ordering department, including name and phone number of contact person
PO Number	Standard purchase order number
Ship Date	Date the goods/services were sent/provided
Quantity	Quantity of goods or services billed
Description	Description of services or goods delivered
Unit Price	Unit price for the quantity of goods/services delivered
Line Total	Amount due by line item
Invoice Total	Sum of all of the line totals for the invoice

Pinellas County offers a credit card payment process (ePayables) through Bank of America. Pinellas County does not charge vendors to participate in the program; however, there may be a charge by the company that processes your credit card transactions. For more information please visit Pinellas County purchasing website at www.pinellascounty.org/purchase.

Payment of invoices for work performed for Pinellas County Board of County Commissioners (County) is made, by standard, in arrears in accordance with Section 218.70, et. seq., Florida Statutes, the Local Government Prompt Payment Act.

If a dispute should arise as a result of non-payment of a payment request or invoice the following Dispute Resolution process shall apply:

- A. Pinellas County shall notify a vendor in writing within ten (10) days after receipt of an improper invoice, that the invoice is improper. The notice should indicate what steps the vendor should undertake to correct the invoice and resubmit a proper invoice to the County. The steps taken by the vendor shall be that of initially contacting the requesting department to validate their invoice and receive a sign off from that entity that would indicate that the invoice in question is in keeping with the terms and conditions of the agreement. Once sign off is obtained, the vendor should then resubmit the invoice as a "Corrected Invoice" to the requesting department which will initiate the payment timeline.
 - 1.) Requesting department for this purpose is defined as the County department for whom the work is performed.
 - 2.) Proper invoice for this purpose is defined as an invoice submitted for work performed that meets prior agreed upon terms or conditions to the satisfaction of Pinellas County.
- B. Should a dispute result between the vendor and the County about payment of a payment request or an invoice then the vendor should submit their dissatisfaction in writing to the Requesting Department. Each Requesting Department shall assign a representative who shall act as a "Dispute Manager" to resolve the issue at departmental level.
- C. The Dispute Manager shall first initiate procedures to investigate the dispute and document the steps taken to resolve the issue in accordance with section 218.76 Florida Statutes. Such procedures shall be commenced no later than forty-five (45) days after the date on which the payment request or invoice was received by Pinellas County, and shall not extend beyond sixty (60) days after the date on which the payment request or invoice was received by Pinellas County.
- D. The Dispute Manager should investigate and ascertain that the work, for which the payment request or invoice has been submitted, was performed to Pinellas County's satisfaction and duly accepted by the Proper Authority. Proper Authority for this purpose is defined as the Pinellas County representative who is designated as the approving authority for the work performed in the contractual document. The Dispute Manager shall perform the required investigation and arrive at a solution before or at the sixty (60) days timeframe for resolution of the dispute, per section 218.76, Florida Statutes. The County Administrator or his or her designee shall be the final arbiter in resolving the issue before it becomes a legal matter. The County Administrator or his or her designee will issue their decision in writing.
- E. Pinellas County Dispute Resolution Procedures shall not be subject to Chapter 120 of the Florida Statutes. The procedures shall also, per section 218.76, Florida Statutes, not be intended as an administrative proceeding which would prohibit a court from ruling again on any action resulting from the dispute.
- F. Should the dispute be resolved in the County's favor interest charges begin to accrue fifteen (15) days after the final decision made by the County. Should the dispute be resolved in the vendor's favor the County shall pay interest as of the original date the payment was due.

- G. For any legal action to recover any fees due because of the application of sections 218.70 et. seq., Florida Statutes, an award shall be made to cover court costs and reasonable attorney fees, including those fees incurred as a result of an appeal, to the prevailing party. If it is found that the non-prevailing party held back any payment that was the reason for the dispute without having any reasonable lawful basis or fact to dispute the prevailing party's claim to those amounts.