

CYBER INCIDENT RESPONSE TEAM AND LEGAL SERVICES AGREEMENT

THIS AGREEMENT is made and entered into this 9 day of August, 2021 (“Effective Date”), by and between PINELLAS COUNTY, a political subdivision of the State of Florida, hereinafter referred to as “County”, and the law firm of MULLEN COUGHLIN, LLC, a Pennsylvania Professional Limited Liability Company, whose local address is 30725 US Highway 19 N #337 Palm Harbor, FL 34684-4400, hereinafter referred to as “FIRM,” (individually “Party” collectively “Parties” hereto).

W I T N E S S E T H:

WHEREAS, given the specialty and scope of the cyber incident response required and the discounted self-insured retention experienced by the County through hiring a firm approved by Chubb Group of Insurance Companies, the county has determined that it has a need for a Cyber Incident Response Team and Coach, as defined in the Chubb Cyber Enterprise Risk Management Policy D95144949 (hereinafter “Policy”), which is incorporated by reference, as well as legal services necessary thereto related to a potential cyber incident occurring in April 2021; and

WHEREAS, the County seeks to retain the Firm to provide services in conjunction in accordance with the Scope of Work set forth in “Exhibit A,” which is attached hereto and incorporated by reference herein (hereinafter “Services”).

WHEREAS, The Firm has agreed to provide such Services in accordance with the terms and conditions contained in Exhibit A and this Agreement.

NOW, THEREFORE, in consideration of the above and mutual covenants contained herein, the Parties agree as follows:

1. The “whereas” clauses above are incorporated herein.
2. Services to be Performed. The Firm hereby agrees to provide the Cyber Incident Response and Legal services necessary as set forth in “Exhibit A,” and as defined in the Policy as well as to additionally provide legal services which may be deemed necessary as a result of the potential cyber breach, or additional cyber breaches as directed by the County Attorney.
3. Requests for Services. All requests for the rendition of legal services will be through the Office of the County Attorney.
4. Compensation. The County appropriates each year the self-insured retention amount of \$100,000.00. The firm’s fees, costs, or expenditures of any kind under this agreement are payable out of the self-insured retention pursuant to the terms of the County’s policy of insurance with Chubb. The County will seek additional appropriations, as necessary. The Firm will submit its invoices to the County for payment until it is advised that the County’s SIR has been exhausted at which time the Firm will submit its invoices to the County’s carrier for payment in the first instance (with a courtesy copy to the County) so long as coverage is available. If the County’s carrier advises that coverage is no longer available, the County is responsible for

payment of the firm's fees, costs, or expenditures up to an additional \$150,000. The parties understand that absent any amendment, if the fees authorized under this Agreement are expended, the Firm is authorized to stop work without penalty. The Firm will submit its invoices to the County for payment until it is advised that the County's SIR has been exhausted at which time the Firm will submit its invoices to the County's carrier for payment in the first instance (with a courtesy copy to the County) so long as coverage is available. The types of fees, costs or expenditures of any kind the County will pay are as follows:

(a) Hourly fees for professional services as listed in "Exhibit B," which is attached hereto and incorporated by reference herein; and

(b) Reasonable out-of-pocket expenses and costs for such items as photocopying, delivery charges, filing fees and other similar items incurred as a result of this Agreement, as set forth in Exhibit B or, for expenses or costs not enumerated in Exhibit B and approved in writing in advance by the County Attorney's Office, the actual costs charged to the Firm. Reimbursement for a cost or expense of \$100.00 or more must be supported by the actual paid invoice, whereas costs and expenses of less than \$100.00 must be itemized and detailed as to the amount; and

(c) County will not be responsible for the cost of any computerized legal research other than the actual billable hourly rate of the appropriate personnel at the Firm.

(d) Local Travel, and hourly charges during such travel, which includes any travel within the Greater Tampa Bay Area is not compensable. Travel that occurs outside of the Greater Tampa Bay Area and per diem reimbursements must be approved by the County Attorney's Office in writing in advance, and may only be paid in accordance with the rates and conditions set forth in Section 112.061, Florida Statutes, and all applicable policies and procedures established by the County.

5. Impact of Exhaustion of Self-Insured Retention. There is a self-insured retention (SIR) of \$100,000.00 on the County's matter. The County approves the Firm to work up to any applicable SIR. If the Firm is notified by the County, and verified by Chubb, or Chubb that the SIR the County's SIR amount has been exhausted, Firm will look to Chubb in the first instance for payment of its invoices and will submit invoices electronically to Chubb. A courtesy copy of any invoices generated after the County's self-insured retention is exhausted will be provided to the County monthly.

6. Term of Agreement and Amendments. The term of this Agreement commences on the Effective Date and remains in full force and effect until the resolution of the matter unless otherwise terminated or extended as provided for herein. This Agreement may be terminated by the County or the Firm at any time upon thirty (30) days written notice to the non-terminating party, however this provision shall not be construed to affect the Court's ability to prevent withdrawal by the Firm. Upon termination by either party, the Firm must transfer all work in progress, completed work, and other materials related to the services provided pursuant to this Agreement to the County. This Agreement and any terms herein may be amended by written mutual agreement of the Parties.

7. Invoices. The Firm must submit a detailed statement of services itemized as to dates, position title, hourly rates and amounts rendered from the Firm, including sufficient documentation to enable County to properly perform its audit responsibilities for the use of public funds, and certification that it has performed said services in conformance with this Agreement and is entitled to receive the amount specified therein. Invoices must be submitted in such a manner as will permit their inspection pursuant to Chapter 119, Florida Statutes. Upon receipt of an invoice as authorized herein, the County Attorney's Office will review said invoices within ten (10) days and notify the Firm in writing whether the invoice is approved or disputed. Once invoices are approved by the County Attorney's Office, they will be forwarded to the Pinellas County Finance Department for payment to be made. Payments will be made pursuant to the Local Government Prompt Payment Act for services rendered and invoiced.

8. Hiring of Experts or Consultants. The Firm must obtain the prior written express approval of the Office of the County Attorney to hire any and all experts and consultants which are deemed necessary and appropriate to assist the Firm in providing Cyber Incident Response services to the County in accordance with the Policy. In the event that such experts or consultants are necessary or appropriate, a separate agreement will be required with the County prior to the provision of compensable services.

9. Periodic Status Reports. The Firm must provide periodic status reports, either verbally or in writing, as may from time to time be requested by the Office of the County Attorney.

10. Public Records.

(a) The Firm understands that the legal file created in this representation of the County is a public record, except to the extent it is temporarily exempt from disclosure under Chapter 119, Florida Statutes, and that Section 286.011, Florida Statutes, may apply to the provision of Services pursuant to this Agreement. The Firm must observe and comply with the requirements of these laws and all related County policies and procedures in performing the Services hereunder. The Firm agrees to maintain for public record access its file and to maintain for public access the file after the legal proceedings have become final in accordance with the destruct laws of the State of Florida. Alternatively, The Firm may elect to deliver the entire original file to the County upon completion of the legal proceedings.

(b) All written and oral information not in the public domain and not previously known, and all information and data obtained, developed, or supplied by the County or at its expense must be kept confidential by the Firm and must not be disclosed to any other party, directly or indirectly, without the County's prior written consent unless required by an order issued by a court or like authority of lawful jurisdiction. Any media inquiries should be communicated to the County Attorney's Office for the County's determination on whether, or in what manner, to respond.

The terms of this provision survive termination of this Agreement.

11. Personnel. The Firm represents that it has, or will secure at its own expense, all necessary personnel required to perform the Services as required herein and that such persons will be qualified to perform the specialized Services required under this Agreement. Such personnel must not be employees of, or have any contractual relationship with, the County unless approved by the County Attorney's Office. All personnel engaged in performing the Services, including legal services, must be fully qualified for the specialized legal services required under this Agreement and, if required, authorized or permitted under federal, state, and local law to perform such services.

12. Conflicts of Interest.

(a) The Firm represents that it presently has no interest and will acquire no interest, either direct or indirect, which would conflict in any matter with the performance of the legal services, as provided in the rules regulating The Florida Bar, in the standards set forth in Part III of Chapter 112, Florida Statutes. The Firm further represents that no person having a conflicting interest will be employed by the Firm to perform the Services.

(b) The Firm must promptly notify the County, in writing, of all potential conflicts of interest for any prospective business association, interest, or other circumstances which may influence or appear to influence the Firm's judgment or quality of the Services. The notice must identify the prospective business association, interest, or circumstance and the nature of work that The Firm wants to undertake and request the County's opinion as to whether the association, interest, or circumstance would, in the opinion of the County, constitute a conflict of interest if entered into by the Firm. The County agrees to notify the Firm of its opinion within thirty (30) calendar days of receipt of notification by the Firm. If, in the opinion of the County, the prospective business association, interest, or circumstance would not constitute a conflict of interest by the Firm, the County shall so state in its opinion.

(c) The Firm will notify the County of a potential conflict of interest arising from its retention by another client as soon as practicable. And, to the extent such a potential conflict should arise, the County will notify Firm as soon as practicable whether it will waive such conflict to the extent permissible, or whether it will not waive the potential conflict.

13. Contractor Status and Insurance Requirements. The Firm and all its employees, agents, and servants are, and will be, in the performance of the Services under this Agreement, independent contractors and not an employee of the County. All persons engaged in the Services performed by the Firm pursuant to this Agreement must at all times, and in all places, be subject to the Firm's supervision and control. The Firm must exercise direct control over the means and manner in which it and its employees, agents, and servants perform the Services. The Firm does not have the power or authority to, and agrees that it will not attempt to, bind the County in any promise, agreement, or representation other than as specifically provided for in this Agreement. The Firm must at all times, maintain insurance satisfying the requirements attached hereto as

“Exhibit C” to this document. Parties with whom the County enters into a triparty agreement with the Firm are not considered employees, agents or servants of the Firm.

14. Non-discrimination. The Firm warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, sex, age, national origin, ancestry, marital status, sexual orientation, or disability.

15. Professional Standards. The Firm hereby represents and warrants that it has and will continue to maintain all licenses and approvals required to conduct its business, and that it will at all times conduct its business activities in a professional manner and that all services will be performed by skilled and competent personnel to the highest professional standards and qualified to perform the specialized Services required under this Agreement.

16. Assignment/Subcontracting. In the event of a corporate acquisition and/or merger, The Firm must provide written notice to the County within thirty (30) calendar days of The Firm’s notice of such action or upon the occurrence of said action, whichever occurs first. The Firm is retained expressly because of The Firm’s unique skills, ability and experience and, therefore, it is understood that no substitution or assignment may be made unless the County expressly approves such substitution or assignment in writing. The Firm is expressly prohibited from subcontracting any Services required hereunder unless such subcontracting is consented to in writing by the County, whose consent will not be unreasonably withheld.

17. Fiscal Non-Funding. In the event sufficient budgeted funds are not available for a new fiscal period, the County will notify The Firm of such occurrence and the Agreement will terminate on the last day of the current fiscal period without penalty or expense to the County.

18. All notices required in this Agreement must be sent by fax or mail to:

Pinellas County Attorney’s Office
Attn.: Jason Ester, Senior Assistant County Attorney
315 Court Street
Clearwater, FL 33756
(Representative of the County)

If sent to The Firm, the notice will be mailed to:

Kevin Michael Mekler
Mullen Coughlin LLC
30725 US Highway 19 N. #337
Palm Harbor, FL 34684-4400

19. Severability. The terms and conditions of the Agreement are deemed to be severable. Consequently, if any clause, term, or condition hereof is held to be illegal or void, such determination will not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement will 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.


20. Governing Law. The laws of the State of Florida govern this Agreement.

21. Entire Agreement. The foregoing terms and conditions constitute the entire Agreement between the Parties hereto and any representation not contained herein is null and void and of no force or effect. Further, this Agreement may be amended only in writing upon mutual consent of the parties hereto.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement on the day and year reflected in the first above written.

PINELLAS COUNTY, FLORIDA
a political subdivision of the
State of Florida

APPROVED AS TO FORM
By: Christy Donovan Pemberton
Office of the County Attorney

By: 
Barry S. Burton, Pinellas County
Administrator

THE FIRM
MULLEN COUGHLIN LLC

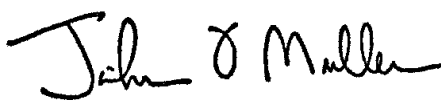
By: 
John F. Mullen, Managing Partner

EXHIBIT "A":

SCOPE OF REPRESENTATION

Pinellas County

Investigate, provide legal advice and otherwise assist with response to a potential data security incident. Such assistance may include but is not limited to directing a forensic investigation into the scope and nature of the potential data security incident, identifying potential notice obligations and regulatory reporting requirements, and assisting in the provision of any required notice and advising in anticipation of litigation.

* * *

EXHIBIT B

Statements for professional services rendered on a monthly basis (whenever possible) for all services performed by our office will be based on the particular case involved, including complexity of the matter, both factually and legally, effort and time involved, services rendered, responsibility and results accomplished and other appropriate factors.

Only one (1) Partner attorney and (1) Associate Attorney working on any incident response matter may charge for the attendance at meetings or discussions, unless approved in advance in writing by the County Representative.

RATE SCHEDULE AND COST/EXPENSE ITEMS SCHEDULE

A. Hourly rates for legal personnel

\$385 Partner

\$325 Associate

\$150 Paralegal

B. Standard charges

We charge for our time in minimum units of .1 hours (6 minutes).

C. Costs and expenses:

Travel expenses including e.g., lodging, airfare, taxis, public transportation, car rental, parking and meals	No charge for travel within the Greater Tampa Bay Area Actual Common Carrier chargers for coach Meals/Accommodations: GSA allowances for a vendor to a County
Deposition costs	Direct invoice from vendor to client
Postage, messenger and other delivery fees	Actual Cost
Mileage	At the Internal Revenue Service's business mileage reimbursement guidelines

Photocopying and other reproduction costs	In-house - \$0.10 per page Outside service – Actual Cost
After hours building services (when dictated)	At cost by special client need and pre-approval
Computer Research	No charge
Facsimile/Telephone Charges	No charge unless a conference call expense is incurred as a result of the County's conference line being unavailable upon request of no less than 4 business hours in which case actual cost.
Other Expenses	Actual cost invoices to the firm. In selected cases, these items may be directly invoiced from vendor to client.
Process Server	Direct invoice from vendor to client or Actual Cost

EXHIBIT C
INSURANCE REQUIREMENTS

Professional Liability (Errors & Omissions) - The Firm must provide coverage for all claims arising out of the services performed with limits not less than \$2,000,000 per claim. The aggregate limit must either apply separately to this contract or must be at least twice the required per claim limit.