

**PROFESSIONAL SERVICES AGREEMENT BETWEEN ALACHUA COUNTY &  
ALACHUA CONSERVATION TRUST FOR NEGOTIATOR SERVICES NO. 13944**

This Professional Services Agreement (“Agreement”) is made by and between Alachua County, Florida, a political subdivision and charter county of the State of Florida, by and through its Board of County Commissioners (the “County”) and Alachua Conservation Trust, Inc., a Florida not for profit corporation which is authorized to do business in the State of Florida (“Professional”). Collectively, the County and the Professional are to herein as the “Parties”.

**WITNESSETH:**

**WHEREAS**, the Parties entered into Agreement for Professional Services Between Alachua County and Alachua Conservation Trust, dated August 8, 2017, through which the Professional provided Negotiator Services to the County to assist the County in the implementation, coordination and promotion of the County's Alachua County Forever Program funded via the 2016 Wild Spaces Public Places ½ cent surtax referendum (the “2017 Agreement”); and

**WHEREAS**, the Parties entered into the First Amendment to the Agreement, dated September 22, 2020, which extended the term of the Agreement through September 30, 2023; and,

**WHEREAS**, on November 8th, 2022, Alachua County voters approved the 10-year 1 cent local government infrastructure surtax referendum, which provided ½ cent to “Wild Spaces Public Places uses” for the purpose of acquiring and improving environmentally significant lands to protect drinking water sources, water quality and wildlife habitat, and to create, improve and maintain parks and recreational facilities; and

**WHEREAS**, the County continues to have the requirement for the services of a contract negotiator to assist the County in the implementation, coordination and promotion of the County's Alachua County Forever Program and desires to continue the relationship with the Professional; and

**WHEREAS**, the Professional is a Florida not-for-profit corporation and is willing to continue to provide the services to the County; and

**WHEREAS**, pursuant to Section 22.3-302 (21) of the Alachua County Procurement Code, the procurement of the services provided by the Professional is exempt from the County’s competitive procurement processes.

**NOW, THEREFORE**, in consideration of the mutual promises and covenants contained herein, and other good and valuable consideration, the receipt of which is acknowledged, the County and Professional agree as follows:

1. **Recitals.** The foregoing recitals are incorporated herein.
2. **Scope.** In accordance with the terms and conditions of this Agreement, Professional agrees to provide Negotiator Services to assist the County in the implementation, coordination and promotion of the County's Alachua County Forever Program;, as more particularly described in the Scope of Services attached hereto as **Exhibit “1”** and incorporated herein (“Services”) for and

as needed by the County. It is understood that the Services may be modified, but to be effective and binding, any such modification must be in writing executed by both the Parties.

3. **Duties of the County.** The County shall have and perform the following duties, obligations, and responsibilities to the Professional:

- A. Provide office space to include telephone, computer with internet and County Network access, use of fax, copier and similar equipment, and provide general office supplies.
- B. Designation of lands to be acquired pursuant to County Resolution 22-066 (as may be amended).
- C. Provide appraisals, environmental audits, title searches, surveys.
- D. Pay for mailings

4. **Term.** This Agreement shall commence on October 1, 2023 and continue until September 30, 2026, unless earlier terminated as provided herein. The term of this Agreement may be extended at the sole option of the County for up to 2 additional 3-year periods.

5. **Qualifications.** By executing this Agreement, Professional makes the following representations and warranties to County:

- A. The Professional is professionally qualified to act as the professional for the Project and is authorized under Florida law to serve as agent for the County in real estate negotiations and other services as identified in this Agreement related to the acquisition of real property.
- B. The Professional shall maintain all necessary licenses, permits or other authorizations necessary to act as professional for the Project until the Professional's duties hereunder have been fully satisfied.
- C. The Professional has become familiar with the Project site and the local conditions under which the Project is to be conducted.
- D. The Professional shall prepare all deliverables required by this Agreement including, but not limited to, all contract plans and specifications, in such a manner that they shall be accurate, coordinated, and adequate for the purposes intended and shall be in conformity and comply with all applicable law, codes and regulations.
- E. The Professional represents that the deliverables prepared by the Professional are adequate and sufficient to accomplish the purposes of the project and meet the requirements of all applicable federal, state and local codes and regulations; and
- F. The Professional acknowledges that the County's review of the deliverables in no way diminishes the Professionals representations pertaining to the deliverables.
- G. The Professional meets all of the conditions and requirements of §255.60, Florida Statutes, and the Professional shall continue to meet all of the conditions and requirements of §255.60, Florida Statutes, during the term of this Agreement as may be extended. In the event the Professional no longer qualifies under §255.60, Florida Statutes, the Professional shall immediately notify the County and this Agreement shall automatically terminate.

6. **Payment.**

- A. The County will pay and Professional will accept, for the timely and complete performance of the Services described in this Agreement, an amount not to exceed the sum of \$132,000.00 per fiscal year (the "Annual Not to Exceed Amount"), payment based on the rates or pricing contained in the Payment Schedule attached hereto as **Exhibit "2"** and incorporated herein by this reference. For the purposes of this Agreement, a fiscal year shall commence on October 1<sup>st</sup> and end on September 30<sup>th</sup>. The Professional shall not charge the County for expenses associated with travel within Alachua County or for travel within 50 miles of the jurisdictional boundary of Alachua County. The Annual Not To Exceed Amount shall be increase at a rate of 2% per year commencing October 1, 2024.
- B. Reimbursable Expenses, if approved in writing in advance, will be paid by the County to the Professional for the following services or costs outlined below. The Professional will invoice for reimbursable services or costs on a monthly basis. Amounts invoiced for reimbursement shall include back-up documentation.
- 6.B.1. Expenses for traveling a distance greater than 50 miles from the jurisdictional boundary of Alachua County, Florida, when traveling in connection with provision of services under this Agreement, shall be in accordance with the provisions of §112.061(7) and (8), Florida Statutes, or their successor and with the prior approval of the County.
- 6.B.2. If authorized in writing in advance by the County's representative, the cost other expenditures made in the interest of the work effort. Expenses of this type shall not exceed \$50,000 annually.
- 6.B.3. Other expenses that do not constitute Reimbursable Expenses, such as cost of acquiring appraisals, may be paid by the County if the Professional obtains the prior written approval of the County. Such expenses shall not be deducted from annual "not to exceed amount" specified in subparagraphs 5.1.
- C. As a condition precedent for any payment, Professional must submit monthly invoices to the County requesting payment for Services properly rendered and expenses due, unless otherwise agreed in writing by the County. Professional's invoice must describe the Services rendered, the date performed, and the time expended, and the person(s) rendering such Services. Professional's invoice shall be accompanied by documentation or data in support of expenses, as the County may require. The invoice shall reflect the allocations as provided and shall state the percentage of completion as to each such allocation. Each invoice shall constitute the Professional's representation to the County that the Services listed have reached the level stated, have served a public purpose, have been properly and timely performed, that the expenses included in the invoice have been reasonably incurred in accordance with this Agreement, that all obligations of Professional covered by prior invoices have been paid in full, and that the amount requested is currently due and owing. Submission of the Professional's invoice for final payment shall further constitute the Professional's representation to the County that, upon receipt by the Professional of the amount invoiced, all obligations of the Professional to others, including its consultants and subcontractors, will be paid in full. Professional shall submit invoices to the County at the following address, unless otherwise directed by the County:

Environmental Protection, Land Conservation & Management  
408 W. University Ave, Suite 106  
Gainesville, FL 32601

- D. The County will make payment to Professional for amounts properly invoiced, as set out below, and in accordance with the provisions of the Florida Prompt Payment Act, Chapter 218, Part VII, Florida Statutes.
- E. If the County has reasonable cause to suspect that any representations of Professional relating to payment are inaccurate, the County may withhold payment of sums then or in the future otherwise due to Professional until the inaccuracy, and the cause thereof, is corrected to the County Manager's or his/her designee's reasonable satisfaction.
- F. The County's performance and obligation to pay under this Agreement is contingent upon a specific annual appropriation by the Alachua County Board of County Commissioners ("Board"). The Parties hereto understand that this Agreement is not a commitment of future appropriations. Continuation of this Agreement beyond the term or the end of any County fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Chapter 129, Florida Statutes; and that the failure of the Board to do so shall not constitute a breach or default of this Agreement.
- G. In the event any part of this Agreement or the Services, is to be funded by Federal, State, or other local agency monies, Professional agrees to cooperate with County in order to assure compliance with all requirements of the funding entity applicable to the use of the monies, including providing access to and the right to examine relevant documents related to the Services and as specifically required by the granting agency, and receiving no payment until all required forms are completed and submitted.

**6. Personnel.**

- A. The Professional will assign only qualified personnel to perform any service concerning this Agreement. At the time of execution of this Agreement, the parties anticipate the following positions will perform those functions indicated:

POSITION/FUNCTION

Executive Director

County Negotiator

Finance/ Business Manager

Director

Acquisition Specialist

Program Coordinator

Outreach/Communications Staff

B. The Conservation Lands Program Manager may authorize changes to this list, but all such changes must be approved in writing.

7. **Insurance.** Professional will procure and maintain insurance throughout the entire term of this Agreement, including any renewals, of the types and in the minimum amounts detailed in **Exhibit “3”** attached hereto and incorporated herein. A copy of a current Certificate of Insurance (COI) showing coverage of the type and in the amounts required is attached hereto as **Exhibit “3-A”**.

8. **Deliverables.** All project deliverables and documents are the sole property of County and may be used by County for any purpose. Any and all deliverables required by this Agreement to be prepared by Professional, such as but not limited to plans and specifications, will be done in such a manner that they shall be accurate, coordinated and adequate for the purposes intended. Professional represents that the deliverables prepared under this Agreement will meet the requirements of all applicable federal, state and local codes, laws, rules and regulations. The County’s review of the deliverables in no way diminishes the Professional’s representations pertaining to the deliverables.

9. **Permits.** Professional will obtain, maintain, and pay for all necessary permits, permit application fees, licenses or any fees required for performing the Services.

10. **Default and Termination.**

A. **Termination for Default:** The failure of Professional to comply with any provision of this Agreement will place Professional in default. If Professional is in default or fails to perform in accordance with the terms or conditions of this Agreement, the County may provide a written notice of default. The County Manager and his/her designee is authorized to provide notice of default on behalf of County and notice may be sent electronically. If the default is not corrected within the allotted time as specifically provided in the notice of default, the County Manager is authorized to provide Professional with written notice of termination of this Agreement on behalf of County. The effective date of termination of this Agreement will be the date specified in the notice of termination or, if no date is specified in the notice, then the effective date of termination will be the date that the notice of termination is received by the Professional.

B. **Termination for Convenience:** County may terminate the Agreement without cause by providing written notice of termination for convenience to the Professional. County Manager and his/her designee is authorized to provide notice of termination on behalf of the County. Notice may be electronically given. Upon such notice, Professional will immediately discontinue all Services for the County currently or to be provided to the County, unless the notice from the County directs otherwise. The effective date of termination of this Agreement will be the date specified in the notice of termination or, if no date is specified in the notice, then the effective date of termination will be the date that the notice of termination is received by the Professional.

C. **Termination for Unavailability of Funding:** If funds to finance this Agreement become unavailable, as determined by the County, County may terminate this Agreement upon written notice to Professional. County Manager and his/her designee is authorized to provide notice of termination on behalf of the County. Notice may be electronically

given. The effective date of termination of this Agreement will be the date specified in the notice of termination or, if no date is specified in the notice, then the effective date of termination will be the date that the notice of termination is received by the Professional.

- D. Upon termination of this Agreement based upon the above, the County may obtain the Services from any other sources, firms, and individuals, and may use any method deemed in the County's best interest. Upon termination, Professional will deliver to County all data, drawings, specifications, reports, estimates, summaries, and other records as may have been accumulated by Professional in performing this Agreement, whether completed or in draft. In the event of termination, Professional's recovery against County shall be limited to that portion of this Agreement amount earned through the date of termination. Professional shall not be entitled to any other or further recovery against County, including, but not limited to, damages, consequential or special damages, or any anticipated fees or profit on portions of the Services not performed.

11. **Indemnification.** PROFESSIONAL HEREBY WAIVES AND RELEASES, AND AGREES TO PROTECT, DEFEND, INDEMNIFY AND HOLD HARMLESS ALACHUA COUNTY AND ITS BOARD OF COUNTY COMMISSIONERS, OFFICERS, EMPLOYEES, VOLUNTEERS, AND ATTORNEYS (COLLECTIVELY "ALACHUA COUNTY") FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, PENALTIES, EXPENSES, AND CAUSES OF ACTION OF ANY AND EVERY DESCRIPTION, AND DAMAGES, INCLUDING ATTORNEYS' FEES AND COSTS, BROUGHT AGAINST ALACHUA COUNTY RESULTING FROM ANY ACCIDENT, INCIDENT OR OCCURRENCE ARISING OUT OF OR IN CONNECTION WITH AN ACT, ERROR OR OMISSION OF PROFESSIONAL OR PROFESSIONAL'S EMPLOYEES, OFFICERS, AGENTS, ASSIGNS OR SUBCONTRACTORS IN CONNECTION WITH THE PERFORMANCE OF THE SERVICES SET FORTH IN THIS AGREEMENT, INCLUDING ATTACHED EXHIBITS, OR FROM PROFESSIONAL'S ENTRY ONTO ALACHUA COUNTY'S PROPERTY AND ANY AND ALL IMPROVEMENTS THEREON. This obligation shall in no way be limited in any nature by any limitation on the amount or type of Professional's insurance coverage. In the event the County is alleged to be liable on account of alleged acts or omissions, or both, of Professional or Professional's employees, representatives or agents, then Professional will investigate, respond to and provide a defense for any allegations and claims, at Professional's sole costs and expense. Furthermore, Professional will pay all costs, fees and other expenses of any defense, including but not limited to, all attorneys' fees, court costs and expert witness fees and expenses. Professional and County will jointly cooperate with each other in the event of any litigation, including any request for documentation. This indemnification provision will survive the termination of this Agreement. Nothing contained herein shall constitute a waiver by the County of sovereign immunity or the provisions or limitation of liability of §768.28, Florida Statutes, as may be amended.

14. **Notice.** Except as otherwise provided in this Agreement, any notice from either Party to the other Party must be in writing and delivered by hand delivery with receipt or sent by certified mail, return receipt requested, to the addresses below. All notices will be deemed delivered five (5) business days after mailing. Each Party may change its mailing address by giving the other Party, written notice of election to change the address.

To Professional:

Alachua Conservation Trust, Inc.  
7204 S.E. County Road 234  
Gainesville, FL 32641  
ATTN: Tom Kay  
[tkay@alachuaconservationtrust.org](mailto:tkay@alachuaconservationtrust.org)

To County:

Environmental Protection, Land Conservation  
& Management  
408 W University Ave, Suite 106  
Gainesville, FL 32601  
[achristman@alachuacounty.us](mailto:achristman@alachuacounty.us)

cc: With a copy electronically sent to:

Alachua County Procurement, Attn:  
Contracts

[acpur@alachuacounty.us](mailto:acpur@alachuacounty.us)

Clerk of Court, Attn Finance &  
Accounting

[dmw@alachuaclerk.org](mailto:dmw@alachuaclerk.org)

15. **Standard Clauses.**

A. **Public Records.** In accordance with §119.0701, Florida Statutes, Professional, *when acting on behalf of the County*, shall as required by Florida law:

1. Keep and maintain public records required by the County to perform the Services.
2. Upon request from the County's custodian of public records, 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 in Florida law or as otherwise provided by law.
3. Ensure that 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 term of this Agreement and following completion of the Agreement if Professional does not transfer the records to the County.
4. Upon completion of the Agreement, transfer, at no cost, to the County all public records in possession of Professional or keep and maintain public records required by the County to perform the Services. If Professional transfers all public records to the County upon completion of the Agreement, Professional shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Professional keeps and maintains public records upon completion of the Agreement, Professional 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 County's information technology systems.

**IF PROFESSIONAL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PROFESSIONAL'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT,**

**CONTACT THE COUNTY'S PUBLIC RECORDS CUSTODIAN AT [publicrecordsrequest@alachuacounty.us](mailto:publicrecordsrequest@alachuacounty.us) OR (352) 264-6906 OR 12 SE 1<sup>ST</sup> STREET, GAINESVILLE, FL 32601.**

If Professional fails to comply with this section, Professional will be deemed in default under this Agreement. The County may enforce as set forth in §119.0701, Florida Statutes. Professional who fails to provide the public records in response to a request within a reasonable time may be subject to penalties imposed under §119.10, Florida Statute, and costs of enforcement, including fees, under §119.0701 and §119.12, Florida Statutes.

Professional will take reasonable measures to protect, secure and maintain any data held by Professional in an electronic form that is or contains exempt, confidential, personal information or protected information, as defined by Florida or federal law, related to or in connection with performance of the Services. If Professional suspects or becomes aware of a security breach or unauthorized access to such data by a third party, Professional shall immediately notify the County in writing and will work, at Professional's expense, to prevent or stop the data breach.

B. Confidential Information. During the term of this Agreement, Professional may claim that some of Professional's information, including, but not limited to, software documentation, manuals, written methodologies and processes, pricing, discounts, or other considerations (hereafter collectively referred to as "Confidential Information"), is, or has been treated as confidential and proprietary by Professional in accordance with §812.081, Florida Statutes, or other law, and is exempt from disclosure under the Florida's public record laws. Professional shall clearly identify and mark Confidential Information as "Confidential Information" or "CI" and the County shall use reasonable efforts to maintain the confidentiality of the Confidential Information that is clearly identified by Professional. County will promptly notify Professional in writing if the County receives a request for disclosure of Professional's Confidential Information. Professional may assert any exemption from disclosure available under applicable law or seek a protective order against disclosure from a court of competent jurisdiction. Professional shall protect, defend, indemnify, and hold harmless Alachua County and its commissioners, officers and employees from and against any claims, actions and judgments arising out of a request for disclosure of Confidential Information or relating to violation or infringement of trademark, copyright patent, trade secret or intellectual property right; however, the foregoing obligation shall not apply to County's misuse or modification of Professional's Confidential Information in a manner not contemplated by this Agreement. Professional shall investigate, handle, respond to, and defend, at Professional's sole cost and expense, any such claim, even if any such claim is groundless, false, or fraudulent. Professional shall pay for all costs and expenses related to such claim, including, but not limited to, payment of attorneys' fees, costs and expenses. If Professional is not reasonably able to modify or otherwise secure for the County the right to continue using the good or product, Professional shall remove the product and refund the County the amounts paid in excess of a reasonable rental for past use. Upon completion of this Agreement, the provisions of this paragraph shall continue to survive. Professional releases the County from claims or damages related to disclosure by the County.

C. Auditing Rights and Information. County reserves the right to require the Professional to submit to an audit, by any auditor of the County's choosing. Professional shall provide access to all of its records, which relate directly or indirectly to this Agreement at its place of business during regular business hours. Professional shall retain all records pertaining to this Agreement and upon request make them available to County for three (3) complete calendar years

following expiration or termination of the Agreement. Professional agrees to provide such assistance as may be necessary to facilitate the review or audit by the County to ensure compliance with applicable accounting and financial standards. If an audit inspection or examination pursuant to this section discloses overpricing or overcharges of any nature by the Professional to the County, Professional shall pay to County the Overcharged Amount which is defined as the total aggregate overcharged amount together with interest thereon (such interest to be established at the rate of 12% annum). Any adjustments or payments which must be made as a result of any such audit or inspection of the Professional's invoices or records must be made. If the Overcharged Amount is equal to or greater than \$50,000.00, Professional shall pay to County the Overcharged Amount and the Audit Amount which is defined as the total aggregate of County's reasonable audit costs incurred as a result of its audit of Professional. County may recover the Overcharged Amount and the Audit Amount, as applicable, from any amount due or owing to Professional whether under this Agreement and any other agreement between Professional and County. If such amounts owed to Professional are insufficient to cover the Overcharged Amount and Audit Amount, as applicable, then Professional hereby shall pay such remaining amounts to County. Payment is due within a reasonable amount of time, but in no event may the time exceed sixty (60) calendar days, from presentation of the County's audit findings to Professional. In no event shall the Overcharged Amount or the Audit Amount be deemed a reimbursable cost of the work or Services. This provision is hereby considered to be included within, and applicable to, any subcontractor agreement entered into by the Professional in performance of the Services under this Agreement. The access, inspection, copying and auditing rights shall survive the termination of this Agreement.

D. Laws & Regulations. Professional will comply with all federal, state, and local laws, ordinances, regulations, rules and code requirements applicable to the work required by this Agreement. Professional is presumed to be familiar with all laws, ordinances, regulations, and rules that may in any way affect the work outlined in this Agreement. If Professional is not familiar with laws, ordinances, rules and regulations, Professional remains liable for any violation and all subsequent damages, penalties, or fines.

E. Governing Law and Venue. The laws of the State of Florida shall govern this Agreement and the duties and obligations stated within this Agreement. Sole and exclusive venue for all actions arising under this Agreement shall be in a court of competent jurisdiction in and for Alachua County, Florida.

F. Amendment and Assignment. The Parties may only modify or amend this Agreement by a mutual written agreement of the Parties. Neither Party will assign or transfer any interest in this Agreement without prior written consent of the other Party. The County and Professional each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement.

G. Additional Services. Additional services not specifically identified in this Agreement may be added to the Agreement upon execution of a written amendment by the Parties.

H. Third Party Beneficiaries. This Agreement does not create any relationship with, or any rights in favor of, any third party.

I. Independent Contractor. In the performance of this Agreement, Professional is acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of the County. Professional is solely responsible for the means, method, technique, sequence, and procedure utilized by Professional in the full performance of the Services referenced in this Agreement.

J. E-Verify. Professional shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Professional during the term of the Agreement. Professional shall expressly require any subcontractors performing work or providing Services under this Agreement to utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Agreement. The E-Verify system is located at <https://www.uscis.gov/E-Verify>.

K. Conflict of Interest. Professional warrants that neither Professional nor any of Professional's employees have any financial or personal interest that conflicts with the execution of this Agreement. The Professional shall notify County of any conflict of interest due to any other clients, contracts, or property interests.

L. Prohibition Against Contingent Fees. As required by §287.055(6), Florida Statutes, the Professional warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Professional to solicit or secure this Agreement and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Professional any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. If Professional breaches this provision, the County has the right to terminate this Agreement without liability, and at the County's discretion, to deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration.

M. Force Majeure. The Parties will exercise every reasonable effort to meet their respective duties under this Agreement but will not be liable for delays resulting from force majeure or other causes beyond their reasonable control, including, but not limited to, compliance with any government laws or regulation, acts of nature, fires, strikes, national disasters, pandemics, wars, riots, transportation problems and any other cause whatsoever beyond the reasonable control of the Parties. Any such cause will reasonably extend the performance of the delayed duty to the extent of the delay so incurred and so agreed by the Parties.

N. Public Entity Crimes. A person or affiliate who has been placed on the convicted vendor list following a conviction of a public entity crime may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity in excess of the threshold amount provided in Florida Statutes, Section 287.017 for Category Two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

O. Collusion. By signing this Agreement, Professional declares that this Agreement is made without any previous understanding, agreement, or connections with any persons, professionals or corporations and that this Agreement is fair, and made in good faith without any outside control, collusion, or fraud.

P. Counterparts. This Agreement may be executed in any number of and by the Parties on separate counterparts, each of which when so executed shall be deemed to be an original, and such counterparts shall together constitute but one and the same instrument. Receipt via email with pdf attachment by a party or its designated legal counsel of an executed counterpart of this Agreement shall constitute valid and sufficient delivery in order to complete execution and delivery of this Agreement and bind the Parties to the terms hereof.

Q. Severability and Ambiguity. It is understood and agreed by the Parties that if any of the provisions of the Agreement shall contravene or be invalid under the laws of the State of Florida, such contravention or invalidity shall not invalidate the entire Agreement, but it shall be construed as if not containing the particular provision(s) held to be invalid, and the rights and

obligations of the Parties shall be construed and enforced accordingly. This Agreement shall not be construed more strictly against one Party than against the other Party, merely due to fact that it may have been prepared by one of the Parties. Each Party represents and agrees that it has had the opportunity to seek the advice of appropriate professionals, including legal counsel, in the review and execution of this Agreement.

R. Electronic Signatures. The Parties agree that an electronic version of this Agreement shall have the same legal effect and enforceability as a paper version. The Parties further agree that this Agreement, regardless of whether in electronic or paper form, may be executed by use of electronic signatures. Electronic signatures shall have the same legal effect and enforceability as manually written signatures. Delivery of this Agreement or any other document contemplated hereby bearing a manual written or electronic signature, by electronic mail in “portable document format” (“.pdf”) form, or by any other electronic means intended to preserve the original graphic and pictorial appearance of a document, will have the same effect as physical delivery of the paper document bearing an original or electronic signature.

S. Entire Agreement. This Agreement constitutes the entire Agreement and supersedes all prior written or oral agreements, understandings, or representations of the Parties.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed on the respective dates under each signature: by Alachua County, Florida by its representative who is authorized to sign, and by Professional, through its duly authorized representative.

**PROFESSIONAL**

By: Tom Kay  
Print: Tom Kay  
Title: Executive Director  
Date: 8-24-23

**IF THE PROFESSIONAL IS NOT A NATURAL PERSON, PLEASE PROVIDE A CERTIFICATE OF INCUMBENCY AND AUTHORITY, OR A CORPORATE RESOLUTION, LISTING THOSE AUTHORIZED TO EXECUTE CONTRACTS ON BEHALF OF YOUR ORGANIZATION OR ENTITY. IF ARE A NATURAL PERSON, THEN YOUR SIGNATURE MUST BE NOTARIZED.**

Anna Prizzia, Chair  
Board of County Commissioners  
Date: \_\_\_\_\_

**ATTEST**

**APPROVED AS TO FORM**

\_\_\_\_\_  
J.K. "Jess" Irby, Esq., Clerk  
(SEAL)

\_\_\_\_\_  
Alachua County Attorney's Office

**IF CONTRACT IS LESS THAN \$50,000 CAN BE SIGNED BY COUNTY MANAGER IF SIGNED BY COUNTY MANAGER CLERK DOES NOT ATTEST AND SIGNATURE BLOCK IS REMOVED**

## Exhibit 1: Scope of Services

### 1 General Requirement

The Professional shall provide expertise in real estate acquisition and conservation of environmentally significant lands in Florida in coordination with Alachua County, through its Alachua County Forever Land Conservation Program (ACF)

### 2 Professional Responsibilities

2.1 **General.** Utilize its legal, real estate, financial planning, public relations, government relations, negotiating and environmental preservation expertise, skills and experience to assist the County in the implementation, coordination and promotion of its Alachua County Forever Program.

2.2 **Land Acquisition.** Work under the direction of the County's ACF Program and provide support in the acquisition of environmentally significant lands. In accordance with Resolution 22-066 (as amended) and applicable policies and priorities of the County, the Professional shall identify and contact the owners of environmentally significant lands to determine the willingness of such owners to negotiate a sale of their land. The Professional shall conduct further activities necessary to negotiate with and contract for the purchase of such properties. Such contracts shall be subject to the approval of the Board of County Commissioners.

2.3 **Negotiations.** Utilize an approved negotiation strategy and appraisals provided by the County. As required, the Professional will assist the County in developing negotiation strategies by participating in meetings of the Land Conservation Acquisition Planning Team. The Professional will notify the County, through its designated representative, when negotiations commence and terminate on each parcel. All negotiations will be conducted by experienced negotiators skilled in real estate transactions. A copy of the Professional's files for each parcel will be made available to the County at all reasonable times from the commencement of negotiations. The Professional will provide information concerning on-going negotiations when requested by the County.

2.4 **Legal and Related Acquisition and Transfer Support.** During the course of due diligence of a purchase agreement and through the closing, the Professional will coordinate and assist the County ACF and legal staff as required in order to bring the transaction to a successful conclusion. In coordination with County staff, the Professional will assist County staff in the preparation of all basic legal acquisition and closing documents, negotiate with sellers or their authorized agents and coordinate the legal requirements of the acquisition with the County's staff assigned to the transaction to ensure compliance with County requirements. If requested, the Professional will attend the real estate closing. With respect to acquisitions by the County which are to be subsequently transferred to the State of Florida, the Professional will assist the County's staff, as requested, in the preparation of necessary documentation and provide technical support and assistance to effect the transfers. Where needed in specific transactions, the Professional will

use its financial planning expertise to frame a deal, suitable for the landowner, which makes use of all the available and appropriate real estate and financial tools available to Alachua County Forever.

**2.5 Acquisition Documents.** Obtain purchase or option agreements on behalf of the County. Agreements to purchase will be on forms approved by the County and subject to the approval of the Board of County Commissioners. If approved, the County will accept the Professional's assignment of the agreement, and proceed to close directly with the owner of the parcels in question. All documents generated by the Professional for the purpose of implementing the County's ACF Program, including appraisals if any, will be delivered to the County by the Professional and may be used by the County as if they were the County's own documents.

**2.6 Alternate Funding Sources (Government Relations).** The Professional should have specific experience with the processes and documents used by the Florida Division of State Lands, the Water Management Districts, the Florida Communities Trust, Agricultural Conservation Easement Program, the Federal Wetlands Reserve Program and other State and federal land conservation programs, including rules governing mitigation agreements and land banks. In the event the County makes application for matching local, state or federal funding for the purchase of environmentally significant lands, the Professional will provide technical assistance to assist the County in securing said matching local, state or federal funding. The County acknowledges that in the event alternative funding is secured for purposes of effecting an acquisition, said acquisition may be subject to specific statutory requirements and guidelines, and all documentation and procedures necessary to effect the acquisition and subsequent transfer of the property may be subject to the review and approval of the participating funding agency. In such event, the Professional staff will prepare the requisite documentation and submit same for approval to the funding agency and the County, and assist and coordinate with the County for purposes of satisfying the requirements of the funding agency.

## 2.7 Progress Reports, Records and Audit.

2.7.1 The Professional will provide the County with a monthly report on the general status of the projects under consideration and the results of negotiations. The Professional will cooperate with County's designated representative for purposes of developing and generating an agreed-upon reporting format for this purpose. The Professional will also provide the County with a quarterly accounting of the Contract Fee; said accounting to be in such form as may be required by the County.

2.7.2 The Professional agrees to maintain all books, documents, papers, accounting records and other evidences pertaining to work performed under this Agreement in such a manner as will readily conform to the terms of this Agreement, and to make such materials available at all reasonable times during the term of this Agreement, and for three (3) years from the date of final payment under this Agreement,

for audit, inspection and/or copying by the County, or any of its duly authorized representatives.

2.7.3 The Professional shall also maintain such records and accounts, including property, personnel and financial records as are deemed necessary by the County to insure proper accounting for all funds expended under this Agreement. Said records shall be available upon request, at all reasonable times during the term of this Agreement, for audit purposes and copying by the County or its auditors.

2.8 **Conflicts.** The Professional will maintain the confidentiality of all appraisals, offers, and other negotiation matters to the extent required by applicable law. This confidentiality provision shall apply to each member of the Professional's staff. No member of the Professional's staff or member of its Board, if applicable, will negotiate, approve, or otherwise participate on behalf of the County in the purchase, sale or exchange of real property owned or to be acquired by the County, if the Professional staff member or member of its Board has any financial interest in the land to be acquired or that is owned by the County. If requested by the County, an Affidavit certifying compliance with the confidentiality provisions that are contained in this paragraph and disclaimer of interest in property shall be provided by the Professional. The Professional will not be precluded from entering into joint purchase agreements with the county.

2.9 **Communications, Outreach and Public Education.** As needed by the County, the Professional shall assist the County with its public education program including coordination of public awareness campaigns, public relations and public presentations. Specifically, the Professional will assist the County as required in initiating and focusing on the needed communications with media, County Commissioners, County staff, environmental organizations, community organizations, landowners and other government agencies and to arrange media events and press releases for purposes of promoting the County's ACF Program and highlighting acquisitions. It is expressly understood and agreed by the Professional that any press release or public information concerning the County's ACF Program is subject to the prior approval of the County.

2.10 **Grants.** If requested by the County, the Professional will assist the County with the development and promotion of acquisition or operational grants.

2.11 **Employees.** The Professional shall assign, at minimum, one full-time staff mutually agreed upon by both parties to be located at the County's designated offices with the task of implementing this Agreement.

2.12 **Relationship.** In no event shall this Agreement or Professional's negotiations create an employment relationship, express or implied, between the County and the Professional. The relationship hereby created between the County and the Professional is that of an independent contractor and under no circumstances is the Professional to be deemed an agent or agency of the County. The Professional shall place owners on notice during negotiations that County shall not be bound to any person or entity to approve or consummate a purchase, or exercise an option to

purchase as a result of the Professional's negotiations, unless and **until** approved by formal action of the Board of County Commissioners.

**Exhibit 2: Payment Schedule**

<b>POSITION/FUNCTION</b>	<b>HOURLY RANGE</b>
Executive Director	\$61.00-\$72.00
County Negotiator	\$50.00-\$58.00
Finance/Business Manager	\$55.00-\$65.00
Director	\$50.00-\$58.00
Acquisition Specialist	\$48.00-\$56.00
Program Coordinator	\$42.00-\$48.00
Outreach/Communications Staff	\$35.00-\$42.00

## Exhibit 3: Insurance Requirements

### TYPE "B" INSURANCE REQUIREMENTS "Professional or Consulting Services"

Contractor shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the contractor, his agents, representatives, employees or subcontractors.

I. **COMMERCIAL GENERAL LIABILITY.**

Coverage must be afforded under a per occurrence form policy for limits not less than \$1,000,000 General Aggregate, \$1,000,000 Products / Completed Operations Aggregate,

\$1,000,000 Personal and Advertising Injury Liability, \$1,000,000 each Occurrence, \$50,000 Fire Damage Liability and \$5,000 Medical Expense.

II. **AUTOMOBILE LIABILITY.**

Coverage must be afforded including coverage for all Owned vehicles, Hired and Non-Owned vehicles for Bodily Injury and Property Damage of not less than \$1,000,000 combined single limit each accident.

III. **WORKERS COMPENSATION AND EMPLOYER'S LIABILITY.**

A. Coverage to apply for all employees at STATUTORY Limits in compliance with applicable state and federal laws; if any operations are to be undertaken on or about navigable waters, coverage must be included for the USA Longshoremen & Harbor Workers Act.

B. Employer's Liability limits for not less than \$100,000 each accident; \$500,000 disease policy limit and \$100,000 disease each employee must be included.

IV. **PROFESSIONAL LIABILITY or ERRORS AND OMISSIONS LIABILITY (E&O).**

Professional (E&O) Liability must be afforded for not less than \$1,000,000 each claim, \$1,000,000 policy aggregate

V. **CYBER LIABILITY COVERAGE (when applicable)**

Vendor shall procure and maintain for the life of the contract in an amount not less than \$1,000,000 per loss for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

Technology/Professional Liability: with limits of \$1 million. Coverage is for the life of the contract and must continue for five (5) years after contract expiration. This coverage must include Cyber Liability coverage for negligent retention of data as well as notification and related costs for actual or alleged breaches of data.

VI. **OTHER INSURANCE PROVISIONS.**

A. The policies are to contain, or be endorsed to contain, the following provisions:

B. Commercial General Liability and Automobile Liability Coverages

1. The Alachua County Board of County Commissioners, its officials, employees and volunteers are to be covered as an Additional Insured as respects: Liability arising out of activities

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performed by or on behalf of the Contractor; products and completed operations of the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor.

1. The Contractor's insurance coverage shall be considered primary insurance as respects the County, its officials, employees and volunteers. Any insurance or self-insurance maintained by the County, its officials, employees or volunteers shall be excess of Contractor's insurance and shall be non-contributory.

**B. All Coverages**

The Contractor shall provide a Certificate of Insurance to the County with a notice of cancellation. The certificate shall indicate if cover is provided under a "claims made" or "per occurrence" form. If any cover is provided under claims made from the certificate will show a retroactive date, which should be the same date of the contract (original if contract is renewed) or prior.

**II. SUBCONTRACTORS**

Contractors shall include all subcontractors as insured under its policies. All subcontractors shall be subject to the requirements stated herein.

**CERTIFICATE HOLDER:                    Alachua County Board of County Commissioners**

Exhibit 3-A: Certificate of Insurance



ALACCON-01

AHILL

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
11/4/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER License # 0C36861 Chantilly-Alliant Ins Svc Inc. 4530 Walney Rd Ste 200 Chantilly, VA 20151-2285	CONTACT Anna Hill PHONE (A/C, No, Ext): (703) 397-0977 FAX (A/C, No): (703) 397-0995 EMAIL ADDRESS:
INSURER(S) AFFORDING COVERAGE	
INSURER A: Pacific Indemnity Company	NAIC # 20346
INSURER B: Federal Insurance Company	20281
INSURER C:	
INSURER D:	
INSURER E:	
INSURER F:	

INSURED  
Alachua Conservation Trust Inc.  
7204 SE County Road 234  
Gainesville, FL 32641

COVERAGES CERTIFICATE NUMBER: REVISION NUMBER:  
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-SECT <input type="checkbox"/> LOC OTHER:	X	X	3581-61-17 EUC	10/30/2022	10/30/2023	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ Included
B	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	X		(22)7361-78-33	10/30/2022	10/30/2023	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$			7988-38-57	10/30/2022	10/30/2023	EACH OCCURRENCE \$ 3,000,000 AGGREGATE \$ 3,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in FL) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	(23) 7173-36-41	10/30/2022	10/30/2023	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  
 Alachua County Board of County Commissioners is additional insured on the above general liability policy when required in written contract. A blanket waiver of subrogation applies in favor of the certificate holder with respect to the above general liability policy. Alachua County Board of County Commissioners is additional insured on the above auto policy.

<b>CERTIFICATE HOLDER</b> Alachua County Board of County Commissioners Attn: Andi Christman 12 SE 1st St., Second Floor Gainesville, FL 32601	<b>CANCELLATION</b> SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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