

**PROFESSIONAL SERVICES AGREEMENT**  
**Between Alachua County and The Trust for Public Land**

**THIS PROFESSIONAL SERVICES AGREEMENT** by and between Alachua County, Florida (hereinafter, “the Client” or “County”), and The Trust for Public Land, a not-for-profit California corporation (“TPL” or “Professional”). As used herein, the County and TPL may be collectively referred to herein as the “Parties”.

**WITNESSETH**

**WHEREAS**, the Client desires to have the Professional perform certain services, and the Professional desires to perform the services upon the terms and conditions set forth below;

**WHEREAS**, the Client wishes to be better informed regarding funding options and mechanisms to support various programs needs in Alachua County, and has requested the technical assistance and advice of the Professional (see Request for Technical Assistance attached hereto as **Exhibit A**);

**WHEREAS**, the Professional represent to the Client that it possesses substantial experience in conducting feasibility research, drafting ballot language for consideration by voters, making program recommendations, and working in cooperation with grassroots and public entities, on funding for said programs, and is willing to provide these services to the Client; and

**WHEREAS**, the Client intends to compensate the Professional for providing professional services and the Parties intend to memorialize the terms and conditions of such agreement herein; and

**WHEREAS**, the procurement of the services set forth in the Agreement are exempt from competitive procurement pursuant to Sections 22.3-302(10) and 22.3-302(21) of the Alachua County Procurement Code

**NOW, THEREFORE**, in consideration of the matters recited above, the mutual covenants set forth herein, and other good and sufficient consideration, the receipt of which is hereby acknowledged, the Parties agree as follows:

1. **TERM.** The term of this Agreement shall commence upon execution of this Agreement by the Parties, and shall continue through March 31, 2022, unless otherwise terminated in accordance with the terms of this Agreement. The Term of this Agreement may be renewed at the option of the County for a period of up to one year at the same terms and conditions contained in this Agreement.

2. **SCOPE OF SERVICES.** The Professional shall research and analyze a range of options available to the Client to fund the following programs: (a) continued funding the County's Wild Spaces Public Places Program that is currently funded by a 0.5% local government infrastructure surtax levied pursuant to section 212.055(2), Florida Statutes, and is currently scheduled to expire on December 31, 2024; (b) funding for the new Alachua County Affordable Housing Trust Fund created pursuant to Alachua County Charter Review Commission Resolution 2020-14, which was approved by referendum during the November 2020 General Election; (c) additional funding for the construction, maintenance and repair of County roads; (d) funding for the design, procurement, installation and construction of a new County owned and operated broadband internet system that will provide affordable internet service to unserved and underserved areas of Alachua County; and (e) funding for the construction, reconstruction, or improvement of public facilities, included any related land acquisition, land improvement, design, engineering costs, and all other professional and related costs required to bring the public facilities into service (*e.g.*, fire stations; general governmental office buildings). In addition to any other funding option to be evaluated by the Professional, the Professional shall prepare a feasibility study, provide program recommendations and, as appropriate, provide draft ballot language for funding these programs with one or more discretionary sales surtax levies pursuant to section 212.055, Florida Statutes. Specifically, the Professional will examine the legal framework, the revenue-raising capacity, the fiscal impact to government budgets and/or taxpayers, how the funding options must be implemented (*e.g.*, levied by County Commission; approved by referendum), and the Professional will provide examples of where and how these mechanisms have been used by other jurisdictions in Florida. The Professional shall evaluate and provide recommendations regarding the legal and electoral considerations for combining funding for multiple programs in the same ballot measure, and shall also research election results in order to examine whether the county electorate has supported or opposed spending public funds for these programs in the past, as well as voter turnout trends. TPL shall issue a report to the Client containing the results of its research and analyses, including all recommendations and proposed ballot language.

3. **COMPENSATION.** The Client agrees to pay the Professional a total lump-sum fix amount of \$15,000 for the services rendered pursuant to this Agreement, inclusive of all fees, costs and expenses (the "Contract Price"), after the Professional delivers the report referenced in Paragraph 2, above, to the Client. The Client shall process and pay the invoice in accordance with the provisions of Chapter 218, Part VII Florida Statutes ("Local Government Prompt Payment Act"), and shall remit payment to:

The Trust for Public Land  
Attn: Accounts Receivable  
P.O. Box 399336  
San Francisco, CA 94139-9336

The Professional shall be solely responsible for all costs and expenses incurred in performing the Scope of Service.

4. **INDEPENDENT CONTRACTOR RELATIONSHIP.** The Professional acknowledges and understands that its performance of this contract is as an independent contractor and, as such, the Professional is obligated for Worker's Compensation, FICA taxes, occupational taxes, all applicable federal, state and local taxes and assessments, and that the Client will not be obligated for same under this Agreement.

5. **TERMINATION OF CONTRACT.**

(a) This Agreement shall terminate automatically on the occurrence of any of the following events: (1) bankruptcy or insolvency of TPL; (2) assignment of this Agreement by any party without the express written consent of the other Parties; or (3) completion of the project or services described above in Paragraph 2 and full performance by all Parties under this Agreement.

(b) The Client may terminate this Agreement upon fifteen days' written notice to the Professional provided that the Client shall reimburse the Professional for work performed in conformance with this Agreement prior to termination in an amount that shall not exceed the Contract Price. This right to terminate shall be in addition to, and not in lieu of, any other rights and remedies the Parties may have at law or in equity.

(d) The Professional's obligations to indemnify the Client under Paragraph 6 below shall continue in full force and effect notwithstanding any termination of this Agreement.

6. **INDEMNIFICATION.** The Professional shall indemnify and hold the Client harmless from any and all demands, claims, causes of action, suits, proceedings, arbitrations, judgments, losses, liabilities, costs, expenses and fees, including but not limited to reasonable attorneys' fees, which arise from or in connection with the services provided by the Professional and/or the negligence or intentional acts of the Professional.

7. **CONFLICT OF INTEREST.** It is understood that the Professional may provide consulting services for other clients during the term of this Agreement. However, during the term of this Agreement, the Professional will not undertake any responsibilities or engage in activities that may conflict with or be detrimental to the interest of the Client. Further, the Professional shall disclose to the Client any situation that may reasonably present a conflict of interest or the appearance of such a conflict. The Client and the Professional will mutually and in good faith attempt to resolve any apparent or perceived conflict of interest. If the conflict cannot be resolved between the Parties, either party may terminate the Agreement effective on the day notice is sent; in which event the Client shall have no obligation to pay all or any part of the Contract Price to the Professional.

8. **INSURANCE.** The Professional shall, while performing the services hereunder, maintain any coverage legally and/or customarily required of an independent contractor while performing the same or similar services for a person or entity in the position of the Professional and warrants that it has obtained for itself and its employees, all insurance required by law or by industry custom for independent contractors involved in the same or similar work. At the Client's request the Professional will provide the Client with a certificate of insurance evidencing such insurance including its workers' compensation insurance.

9. **PROJECT RECORDS**

(a) General Provisions:

Any document submitted to the County may be a public record and is open for inspection or copying by any person or entity. "Public records" are defined as all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency per §119.011(12), Florida Statutes. Any document is subject to inspection and copying unless exempted under Chapter 119, Florida Statutes, or as otherwise provided by law.

In accordance with §119.0701, Florida Statutes, the Professional, *when acting on behalf of the County*, as provided under 119.011(2), Florida Statutes, shall keep and maintain public records as required by law and retain them as provided by the General Record Schedule established by the Department of State. 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 unless exempted under Chapter 119, Florida Statutes, or as otherwise provided by law. Additionally, the Professionals shall provide the public records at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Professional shall 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 this Agreement and following completion of this Agreement if the Professional does not transfer the records to the County.

(b) Confidential Information:

During the term of this Agreement, the Professional may claim that some or all 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 the Professional in accordance with §812.081, Florida Statutes, or other law, and is exempt from disclosure under the Public Record Act.

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 information properly identified by the Professional as “Confidential Information” or “CI.”

The County shall promptly notify the Professional in writing of any request received by the County for disclosure of Professional’s Confidential Information and the Professional may assert any exemption from disclosure available under applicable law by seeking a protective order against disclosure from a court of competent jurisdiction. Professional shall protect, defend, indemnify, and hold the County, its officers, employees and agents free and harmless from and against any claims or judgments arising out of a request for disclosure of Confidential Information. Professional shall investigate, handle, respond to, and defend, using counsel chosen by the County, 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 attorney fees, court costs, and expert witness fees and expenses. Upon completion of this Agreement, the provisions of this paragraph shall continue to survive. Professional releases County from claims or damages related to disclosure by County.

(c) Project Completion:

Upon completion of the Work, or in the event this Agreement is terminated, the Professional, *when acting on behalf of the County* as provided under §119.011(2), Florida Statutes, shall transfer, at no cost, to the County all public records in possession of the Professional or keep and maintain public records required by the County to perform the service. If the Professional transfer all public records to the County upon completion or termination of the Agreement, it must destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Professional keeps and maintains public records upon the completion or termination of the Agreement all applicable requirements for retaining public records shall be met. All records stored electronically shall be provided to the County, upon request from the County’s custodian of public records, in a format that is compatible with the information technology systems of the County.

(d) Compliance:

The Professionals may be subject to penalties under §119.10, Florida Statutes, if the Professional fail to provide the public records to the County within a reasonable time.

**IF THE PROFESSIONAL HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PROFESSIONAL’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY REPRESENTATIVE AT E-MAIL:**

[publicrecordsrequest@alachuacounty.us](mailto:publicrecordsrequest@alachuacounty.us); PHONE: (352) 384-3132; ADDRESS:  
12 SE 1ST STREET, GAINESVILLE, FL 32601

10. **NOTICES.** Any notice, demand, request, or other communication required or permitted by this Agreement or by law shall be in writing, and shall be deemed to be given when (a) delivered in person with signed proof of delivery, (b) delivered by United States certified or registered mail, return receipt requested, postage prepaid, to the following addresses or (c) delivered by email to the following email addresses, upon receipt of a reply email confirming receipt:

TPL:

Will Abberger  
306 N. Monroe Street  
Tallahassee, FL 32301  
will.abberger@tpl.org

County:

County Manager  
12 SE 1<sup>st</sup> Street  
2<sup>nd</sup> Floor  
Gainesville, Florida 32602-2877

To change or update either of the addresses above, the notifying party shall provide notice of the change in writing to the other Parties using the methods set out above. The date of notice shall be the date the notifying party sends notice to the receiving party. If the notifying party delivers personal notice to the receiving party, the receiving party shall have received notice upon receipt thereof.

**11. U.S. DEPARTMENT OF HOMELAND SECURITY E-VERIFY SYSTEM**

(a) The 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. The E-Verify system is located at <https://www.uscis.gov/e-verify>.

(b) The Professional shall expressly require any subcontractors performing work or providing services pursuant to the County's 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 the agreement. The E-Verify system is located at <https://www.uscis.gov/e-verify>.

12. **MISCELLANEOUS.**

(a) Assignment. No party shall assign this Agreement or any rights or benefits accruing to it hereunder without the prior written consent of the other Parties which consent may be withheld by any party in its sole discretion.

(b) Governing Law; Venue. The laws of the State of Florida applicable to contracts executed and performed entirely therein shall govern this Agreement. Sole and exclusive venue for any lawsuit, claim or cause of action arising under this Agreement shall be Alachua County, Florida.

(c) Waiver of Default. Failure by either party to enforce any provision of this Agreement shall not be construed as a waiver of such provision or of the right to such party thereafter to enforce such provision. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented.

(d) Modifications. Except as expressly set forth elsewhere in this Agreement, this Agreement may be modified only in writing, signed by all Parties hereto.

(e) Integration Clause. This Agreement shall constitute the entire agreement between the Parties hereto with respect to the subject matter hereof and shall supersede all prior correspondence, conversations and negotiations with respect thereto.

(f) Attorneys' Fees. The Parties agree that reasonable attorneys' fees and costs shall be awarded to the prevailing party in any arbitration or litigation between the Parties in connection with this Agreement.

(g) Binding Effect. This Agreement shall be binding upon the heirs, successors, assigns and representatives of the Parties hereto.

(h) Severability. If any provision, in whole or in part, of this Agreement should be found to be invalid or unenforceable, it shall not affect the validity of any other provisions within this Agreement which shall continue to bind the Parties.

(i) Interpretation. This Agreement shall be construed as if jointly drafted by the Parties and no presumption, inference, or burden of proof shall arise favoring or disfavoring a Party by virtue of authorship of any or all of the Agreement's provisions. Each Party represents and agrees that it has had the opportunity to seek the advice of appropriate professions, including legal professionals, in the review and execution of this Agreement.

(j) Time is of the Essence. The Professional understands that time is of the essence in this Agreement and that the Client will be relying on the timeliness of the Professional.

(k) Multiple Originals/Electronic Signatures. This Agreement may be executed in multiple originals, which shall be deemed to be one document. 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. The County shall determine the means and methods by which electronic signatures may be used to execute this Agreement and shall provide the Contractor with instructions on how to use said method. Delivery of this Agreement or any other document contemplated hereby bearing an manually written or electronic signature by facsimile transmission (whether directly from one facsimile device to another by means of a dial-up connection or whether mediated by the worldwide web), 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.

(l) Ownership of Deliverables. All project deliverables and documents shall be jointly owned by the County and the Professional, either party may use the deliverables and documents for any purpose which that party deems appropriate.

(m) The Professional shall comply with all laws, ordinance and regulations applicable to the Scope of Services. The Professional represent that it is are familiar with all federal, state and local laws, ordinance and regulations that may be applicable to the Scope of Services.

[This space was intentionally left blank]



**IN WITNESS WHEREOF**, the Parties have executed this Agreement effective the date first above set forth.

**ALACHUA COUNTY, FLORIDA**

By: \_\_\_\_\_  
Michele Lieberman  
County Manager

Date: \_\_\_\_\_

**THE TRUST FOR PUBLIC LAND**

By: \_\_\_\_\_  
Will Abberger  
Vice President  
306 N. Monroe Street  
Tallahassee, FL 32301  
Telephone: 850-222-7911, x23

Date: \_\_\_\_\_

**IF THE PROFESSIONAL IS NOT NATURAL PERSONS, PLEASE PROVIDE A CERTIFICATE OF INCUMBENCY AND AUTHORITY, OR A CORPORATE RESOLUTION, LISTING THOSE AUTHORIZED TO EXECUTE THIS AGREEMENT ON BEHALF OF YOUR ORGANIZATION.**