



AGENDA REPORT
January 8, 2019

Award of Contract NRMD Education/Outreach/Marketing Campaigns

SUBJECT:

Award of Contract RE: Natural Resources Stormwater Utility & Save Our Indian River Lagoon Education/Outreach/Marketing Campaign Services RFP #P-3-18-17

FISCAL IMPACT:

Fiscal Impact: FY18-19

Service A, General Stormwater Pollution Prevention \$72,117.39 (\$42,050.00 from Stormwater Fund 1110, \$30,067.39 Revenue from Consortium Partners.)

Service B: Stormwater Marketing Campaign: \$23,072.06 Revenue from Consortium Partners.

Service C, Save Our Indian River Lagoon (SOIRL) Public Education and Outreach Campaigns: Fund 1260, \$275,000

FY19-20

Service A, General Stormwater Pollution Prevention: 72,117.39 (\$42,050.00 from Stormwater Fund 1110, \$30,067.39 Revenue from Consortium Partners.)

Service B Stormwater Marketing Campaign: \$23,072.06 Revenue from Consortium Partners.

Service C, Save Our Indian River Lagoon (SOIRL) Public Education and Outreach Campaigns: Fund 1260, \$145,000

DEPT/OFFICE:

Central Services

REQUESTED ACTION:

It is requested the Board accept the negotiated contracts with the selected firms: the Marine Resources Council of East Florida Inc. (MRC) and their partners Applied Ecology, Inc. and Uppercase, Inc., and Marketing Talent Network, Inc. (MTN) and authorize the Chair to execute the negotiated contracts subject to approval by the County Attorney's Office and Risk Management.

SUMMARY EXPLANATION and BACKGROUND:

This agenda action addresses public outreach and engagement needs for several different programs, delineated as Services A, B and C in a Request for Proposals that

was previously approved for advertisement by the Board of County Commissioners.

Brevard County and Municipalities are required under the National Pollutant Discharge Elimination System (NPDES) permit program to provide education and outreach on stormwater pollution. In 2011, Brevard County entered a interlocal partnership with nine municipalities to work collaboratively with an outreach service provider to deliver a more unified pollution prevention message county-wide. To continue this successful partnership, the Board of County Commissioners, in regular session on October 10, 2017, authorized staff to solicit a Request for Proposals (RFP) for general stormwater pollution prevention education and outreach (Service A) and related marketing services (Service B).

The Save Our Indian River Lagoon Project Plan (SOIRLPP), adopted by the County Commission in 2016, recognized potential benefits from expanding fertilizer outreach and engagement beyond the existing pollution prevention programs funded by stormwater utilities. The RFP was being updated to request qualifications for this additional work when the Commission adopted the 2018 Update of the SOIRLPP that further expanded outreach funding for marketing campaigns targeted to address grass clippings, excess irrigation, stormwater pond maintenance and septic system maintenance. The RFP was updated again (adding Service C) to address this expanded work.

RFP # P-3-18-17 was advertised on August 2, 2018 and proposals were opened on September 13, 2018 with three firms responding, Marketing Talent Network, Inc. (MTN), McQueen Marketing, and The Marine Resource Council (MRC) team. Proposers responded with their professional qualifications and experience in planning, development, implementation, creative design, communication, advertising, production, and reporting of an all-encompassing, integrated education/outreach/marketing campaign. Rather than shortlisting, all three firms were asked to give presentations to the Board-approved Selection Committee.

A Selection Committee consisting of Bach McClure, Stormwater Program Manager, NRMD; Carolina Alvarez, Engineer II, NRMD; Brandon Smith, Environmental Specialist, NRMD; Dr. John Windsor, Professor at Florida Institute of Technology and member of the SOIRL Citizen Oversight Committee; and Dani Straub, Engineering Supervisor, City of Melbourne, one of the nine partners for NPDES outreach, met on October 18, 2018 to hear presentations from all proposers and evaluate and rank the firms. The MRC team was selected as the best ranked proposer for General Stormwater Pollution Prevention (Service A) and MTN Advertising was selected as the best ranked proposer for a Stormwater Marketing Campaign (Service B) and the Save Our Indian River Lagoon (SOIRL) Public Education and Outreach Campaigns (Service C). The committee voted to enter into negotiations with both proposers.

A Negotiation Committee consisting of the same members met on November 15 and November 27, 2018 and reached agreements with the MRC Team and MTN Advertising pending Board approval. If awarded, the MRC Team will provide the primary General Stormwater Pollution Prevention outreach services (Service A), and secondary/back-up services for Stormwater Marketing Campaign (Service B) and Save Our Indian River Lagoon (SOIRL) Public Education and Outreach Campaigns (Service C). MTN Advertising will provide primary Stormwater Marketing Campaigns (Service B) and Save Our Indian River Lagoon (SOIRL) Public Education and Outreach Campaigns (Service

C).

Contacts: Leslie Rothering, Central Services Department; Phone (321) 617-7390, ext. 5-6038

Carolina Alvarez or Virginia Baker, NRMD; Phone (321) 633-2016

ATTACHMENTS:

- | | Description |
|---|--|
| ▣ | P31817Scoring |
| ▣ | County Attorney Review Sheet |
| ▣ | Risk Management Review Sheet |
| ▣ | MRC Service A Agreement |
| ▣ | MTN Service B Agreement |
| ▣ | MTN Service C Agreement |
| ▣ | MRC Service B Back-Up Agreement |
| ▣ | MRC Service C Back-Up Agreement |



Central Services Department
 2725 Judge Fran Jamieson Way
 Building C, Suite 303
 Viera, Florida 32940

RANKING SHEET for - PROPOSAL # P-3-18-17
Service Area A / Save Our Lagoon Outreach Campaign

MEETING DATE: October 18, 2018

Posting Date: October 22, 2018 @ 10:00 A.M.

POSTED BY: Leslie Rothering

	PROPOSERS	
	Marine Resource Council, Applied Ecology & Uppercase	McQueen Marketing
Selection Committee Members		
Dani Straub	1	2
Carolina Alvarez	1	2
John Windsor	1	2
Bach McClure	1	2
Brandon Smith	1	2
TOTAL	5	10
RANK	1*	2
* MRC, Applied Ecology & Uppercase #1 Ranked Firm		
Brevard County encourages prompt and fair handling of all complaints and disputes with the business community. Filing of any disputes and appeals shall be in accordance with procedures specified in bid documents.		

**Save Our Lagoon Education/Outreach/Marketing Campaign
Proposal # P-3-18-17
Selection Committee Score Sheet**

SERVICE AREA A

COMMITTEE MEMBER NAME: Dani Straub

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	A	8	18	8	18	15	67	1
McQueen Marketing	A	8	18	14	16	10	66	2

COMMITTEE MEMBER NAME: Carolina Alvarez

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	A	10	20	10	17	30	87	1
McQueen Marketing	A	10	10	5	10	20	55	2

COMMITTEE MEMBER NAME: John Windsor

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	A	10	25	15	20	30	100	1
McQueen Marketing	A	9	22	12	17	26	86	2

COMMITTEE MEMBER NAME: Bach McClure

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	A	10	25	11	18	30	94	1
McQueen Marketing	A	10	20	12	12	15	69	2

COMMITTEE MEMBER NAME: Brandon Smith

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	A	10	22	10	20	30	92	1
McQueen Marketing	A	3	22	8	12	30	75	2

RANKING SHEET for - PROPOSAL # P-3-18-17

Service Area B & C / Save Our Lagoon Outreach Campaign

MEETING DATE: October 18, 2018

Posting Date: October 29, 2018 @ 10:00 A.M. – Revised: Update to Dani Straub Rankings

POSTED BY: Leslie Rothering

	PROPOSERS		
	Marine Resource Council, Applied Ecology & Uppercase	McQueen Marketing	MTN Advertising
Selection Committee Members			
Dani Straub	2	2	1
Carolina Alvarez	2	3	1
John Windsor	1	2	3
Bach McClure	2	3	1
Brandon Smith	2	3	1
TOTAL	9	14	7
RANK	2	3	1
MTN Advertising # 1 Ranked Firm, #2 MRC			

Brevard County encourages prompt and fair handling of all complaints and disputes with the business community. Filing of any disputes and appeals shall be in accordance with procedures specified in bid documents.

**Save Our Lagoon Education/Outreach/Marketing Campaign
Proposal # P-3-18-17
Selection Committee Score Sheet**

SERVICE AREA B & C

COMMITTEE MEMBER NAME: Dani Straub

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	B & C	8	18	12	18	18	74	2
McQueen Marketing	B & C	8	17	14	18	15	72	3
MTN Advertising	B & C	8	20	12	18	18	76	1

COMMITTEE MEMBER NAME: Carolina Alvarez

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	B & C	10	20	12	18	30	90	2
McQueen Marketing	B & C	10	18	13	15	27	83	3
MTN Advertising	B & C	10	23	15	18	28	94	1

COMMITTEE MEMBER NAME: John Windsor

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	B & C	10	25	15	20	30	100	1
McQueen Marketing	B & C	9	22	12	17	26	86	2
MTN Advertising	B & C	9	20	10	17	26	82	3

COMMITTEE MEMBER NAME: Bach McClure

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	B & C	10	25	11	14	23	83	2
McQueen Marketing	B & C	10	20	12	12	20	74	3
MTN Advertising	B & C	10	22	15	16	25	88	1

COMMITTEE MEMBER NAME: Brandon Smith

PROPOSER NAME		EVALUATION CRITERIA					TOTAL	RANK
		Compliance with RFP Instructions	Strategic Approach to Services	Quality Control/Costs	Personnel Credentials and Team	Related Experience with Similar Work and References		
	Service Area	10 Points	25 Points	15 Points	20 Points	30 Points		
Marine Resource Council, Applied Ecology & Uppercase	B & C	10	22	10	19	30	91	2
McQueen Marketing	B & C	10	22	8	18	30	88	3
MTN Advertising	B & C	10	20	12	20	30	92	1

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: TBD	
2. Fund/Account #: 0111/260070	3. Department Name: Natural Resources
4. Contract Description: Professional Marketing and Education Services	
5. Contract Monitor: Carolina Alvarez	7. Contract Type: TERM CONTRACT
6. Dept/Office Director: Virginia Barker	

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Carolina Alvarez <small>Digitally signed by Carolina Alvarez Date: 2018.05.02 08:20:22 -0400</small>	05/18/2018
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>		
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Valliere, Christine <small>Digitally signed by Valliere, Christine Date: 2018.05.18 13:01:29 -0400</small>	05/18/2018

SECTION III - REVIEW AND APPROVAL TO EXECUTE

COUNTY OFFICE	APPROVAL		SIGNATURE	DATE
	YES	NO		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>		
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>		
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>		

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor:	
2. Fund/Account #:	3. Department Name:
4. Contract Description:	
5. Contract Monitor:	7. Contract Type:
6. Dept/Office Director:	

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency			_____	_____
Risk Management			_____	_____
County Attorney			_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency			_____	_____
Risk Management			_____	_____
County Attorney			_____	_____

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	
Department	
Program	
Contact Name	
Cost Center, Fund, and G/L Account	
Vendor Information (SAP Vendor #)	
Contract Status	
Contract Title	
Contract Type	
Contract Amount	
Storage Location (SAP)	
Contract Approval Date	
Contract Effective Date	
Contract Expiration Date	
Contract Absolute End Date (No Additional Renewals/Extensions)	
Material Group	
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	
"Right To Audit" Clause Included in Contract	
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	



Tammy Rowe, Clerk to the Board, 400 South Street • P.O. Box 999, Titusville, Florida 32781-0999

Telephone: (321) 637-2001
Fax: (321) 264-6972
Tammy.Rowe@brevardclerk.us

• January 9, 2019

MEMORANDUM

TO: Virginia Barker, Natural Resources Management Director

RE: Item I.1., Award Contract NRMD Education/Outreach/Marketing Campaigns

The Board of County Commissioners, in regular session on January 8, 2019, approved approved General Stormwater Pollution Prevention Outreach Professional Services Agreement (Service A) with Marine Resources Council (MRC), Stormwater Marketing Campaign Services Agreement (Service B) with Marine Resources Council (MRC), and Stormwater Marketing Campaign Services Agreement (Service B) with MTN Advertising (MTN); and directed staff to send proposals regarding the SOIRL Funded Public Education and Outreach Marketing Campaign Services Agreement (Service C) to the Citizen's Oversight Committee (COC) to consider at its January meeting to determine a lower amount of resources as part of the 2019 update. Enclosed are three executed General Stormwater Pollution Prevention Outreach Professional Services Agreements (Service A) with MRC, three executed Stormwater Marketing Campaign Services Agreements (Service B) with MRC, and three executed Stormwater Campaign Services Agreements (Service B) with MTN.

Upon execution by Marine Services Council and MTN Advertising, please return a fully-executed copy of each Agreement to this office for inclusion in the official minutes.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS
SCOTT ELLIS, CLERK

for: Denna Scott
Tammy Rowe, Deputy Clerk

/kp

Encls. (9)

cc: Contracts Administration
Central Services Director
Finance
Budget

Natural Resources Management Department

**STORMWATER
MARKETING CAMPAIGN
SERVICES AGREEMENT
(SERVICE B)**

2725 Judge Fran Jamieson Way,
Bldg. A, Viera, Florida, 32940
321-633-2050

TABLE OF CONTENTS

SECTION I - GENERAL IDENTIFICATION OF SERVICES	1
SECTION II - COUNTY OBLIGATIONS	2
SECTION III - PROFESSIONAL SERVICES.....	2
SECTION IV - TIME OF COMPLETION.....	3
SECTION V - COMPENSATION	3
SECTION VI - PAYMENT AND PARTIAL PAYMENTS.....	3
SECTION VII - SCHEDULE OF WORK	4
SECTION VIII – DISPUTE RESOLUTION	4
SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES.....	5
SECTION X - REUSE OF DOCUMENTS.....	6
SECTION XI - NOTICES	7
SECTION XII - AUDIT RIGHTS.....	7
SECTION XIII – PUBLIC RECORDS	8
SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).....	9
SECTION XV - SUBCONTRACTING	10
SECTION XVI – INDEPENDENT CONTRACTOR.....	10
SECTION XVII - TRADEMARKS AND COUNTY SEALS.....	10
SECTION XVIII – ATTORNEY’S FEES.....	11
SECTION XIX – VENUE	11
SECTION XX – GOVERNING LAW	11
SECTION XXI - CONTINGENT FEES.....	11
SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT	12
SECTION XXIII – DURATION OF AGREEMENT.....	13
SECTION XXIV – DEFAULT	13
SECTION XXV - INSURANCE	14
SECTION XXVI - INDEMNIFICATION	15
SECTION XXVII - QUALITY CONTROL	16

SECTION XXVIII – NON-EXCLUSIVE AGREEENT.....	16
SECTION XXIX – PUBLIC ENTITY CRIMES.....	17
SECTION XXX - INTEREST OF COMMISSIONERS AND OTHERS	17
SECTION XXXI - INTEREST OF COMPANY.....	17
SECTION XXXII - ENTIRETY OF AGREEMENT	18
SECTION XXXIII – SEVERABILITY	18
SECTION XXXIV – SURVIVAL	18
SECTION XXXV – EFFECTIVE DATE.....	18
SECTION XXXVI – SCRUTINIZED COMPANIES.....	19
SCOPE OF SERVICES.....	EXHIBIT A
SCHEDULE OF FEES.....	EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

This is an agreement entered into this 8 day of January, 2019, by and between Brevard County a political subdivision of the State of Florida, hereinafter referred to as COUNTY and MARINE RESOURCES COUNCIL hereinafter referred to as COMPANY.

WHEREAS, the COUNTY Natural Resources Management Department for the Education and Outreach Services, hereafter referred to as SERVICES described in Exhibit "A" Scope of Services, attached hereto and made a part hereof by this reference.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the COMPANY, and the COMPANY hereby covenants to provide professional services as prescribed herein.

SECTION I - GENERAL IDENTIFICATION OF SERVICES

All professional services provided by the COMPANY for the COUNTY shall be identified in the Scope of Services, exhibit "A". Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation and a projected schedule for completion of the work to be performed by the COMPANY. No additional work shall be performed under this Agreement without a written Notice to Proceed signed by the Chairman of the Board of County Commissioners or other authorized representative of the COUNTY where approved by Board action. The written Notice to Proceed for additional services shall constitute an addendum to this Agreement.

Services required for the General Outreach Services will be provided in the unincorporated areas and within the jurisdictions of partnering municipalities. The Services will support stormwater pollution prevention, the NPDES permit compliance and the BMAP outreach needs.

SECTION II - COUNTY OBLIGATIONS

The COUNTY agrees that they shall furnish to the COMPANY, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

SECTION III - PROFESSIONAL SERVICES

Upon receipt of Notice to Proceed, COMPANY agrees to perform professional services associated with an individual work order in accordance with the negotiated terms of this Agreement, and in accordance with accepted professional standards and practices. The COMPANY warrants the adequacy of work provided under this Agreement and Work Orders, and agrees to correct any errors and omissions that may be required because work was found defective. This remedy shall be cumulative to all other remedies available under law.

In connection with the services to be rendered pursuant to this Agreement, the COMPANY further agrees to:

- A. Maintain an adequate staff of qualified personnel.
- B. Comply with federal, state and local laws, ordinances, or contract applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all the work.
- D. Cooperate and coordinate with other COUNTY CONSULTANT's, as directed by the COUNTY.
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, photos, art work, reports, notes, records, sketches, printed material, lesson plans, and other pertinent documents open to the inspection of the COUNTY or its authorized agent at any time.
- F. Submit for COUNTY review, sketches, work plans, survey, proposals and other work representative of the Services progress, which may be stipulated in an

individual Work Order .

- G. Submit for COUNTY approval the final work product upon incorporation of any modifications requested by the COUNTY during any previous review.
- H. Obtain and maintain any and all licenses, permits, franchises, governmental authorizations, including permission to use patents, **trademarks**, copyrights or other rights necessary to perform the Services as may be required from time to time by applicable law.

SECTION IV - TIME OF COMPLETION

The services to be rendered by the COMPANY shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement and shall be completed within the time stated in the Work Order.

SECTION V - COMPENSATION

The COUNTY agrees to pay and the COMPANY agrees to accept, for the services described in Exhibit "A" pursuant to this Agreement, and stated in a Work Order, fees and other compensation as described in Exhibit "B", and as described in the individual Work Orders..

Additional Services under this Agreement shall, if required and requested, be compensated in accordance with the attached Exhibit "B", Schedule of Fees.

SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the COMPANY for all authorized work performed during the previous calendar month, and in accordance with Exhibit "B" and individual Work Orders

- A. Invoices shall include a breakdown for each part of the work billed and

personnel as identified in Exhibit "B".

- B. The COMPANY shall provide a schedule of work with anticipated costs for each milestone in the schedule.
- C. The COUNTY shall adhere to the Florida Prompt Payment Act, Sections 218.80 through 218.80, Florida Statutes and the COUNTY Administrative Order AO-33 for prompt payment of invoices.

SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine the units or sections of the work on which the COMPANY shall proceed and in what order. Should a work revision effect a change in scope, cost or schedule, the COMPANY shall submit such revisions for review and, if warranted, approval by the COUNTY in writing. All the work under this Agreement is to be completed on an annual basis.

SECTION VIII – DISPUTE RESOLUTION

All services shall be performed by the COMPANY to reasonable professional standards and practices, and to the reasonable requirements of the COUNTY. The COUNTY Central Services Director or designee shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be written and shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the COMPANY does not concur with the decisions of the COUNTY, within ten (10) days after determination by the Central Services Director or designee, the COMPANY shall present any such objections in writing to the COUNTY Central Services Director and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Natural Resources Management Department, County Manager's Office and the Central Services Office for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that

prior to filing any suit the COMPANY goes through the appeal process established in this Agreement and provided further that the COMPANY strictly abides by the ten-day time deadline set forth in this paragraph.

SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES

Intellectual property includes, but is not limited to, documents, photographs, art work, reports, educating plans, ideas, marketing material (video, music, print ads, slogans, TV, Media, online, art work, radio), website development, press releases, maps, contract documents, logos, slogans, taglines, branding, advertising and educational materials, curricula, powerpoint slides, supplementary works, compilations, derivative works and all other work product developed by the COMPANY pursuant to this Agreement, whether used or not used.

It is likely that each Work Order issued under this Agreement will include work that is specially ordered or commissioned as a “work made for hire” under 17 U.S.C. § 101. In such case, where the Work Order states the work product is specially ordered as a “work made for hire,” the COMPANY agrees that the COUNTY is the exclusive owner of all work product ordered or commissioned under that Work Order which qualifies as a “work made for hire,” as that term is defined in 17 U.S.C. § 101, without restrictions or limitations upon its use.

For all other work that is not specially ordered or commissioned as a “work made for hire” on the Work Order, the COMPANY grants to the COUNTY or agrees to obtain for the COUNTY a royalty free, world-wide, nonexclusive, irrevocable, unlimited license right in intellectual property produced, used, or modified pursuant to this Agreement, without restrictions or limitations upon its use. Such licenses will include an express right for the COUNTY to further sub-license the intellectual property without restriction. Such licenses will be promptly provided in writing to the COUNTY with delivery of the work.

All copyrightable materials produced pursuant to this Agreement shall be marked and dated by the COMPANY in such a manner as to preserve and protect the legal

rights of the COUNTY.

The COMPANY agrees to obtain, or cause to be obtained, any other releases, permits or authorization necessary for the use of photographs, copyrighted materials, art work or any other property or rights belonging to a third party for use in performing services for the COUNTY.

When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use. There shall be no additional compensation for the rights and property granted under this paragraph.

The COMPANY further agrees that upon request or upon expiration, cancellation or termination of this Agreement, the COMPANY will provide COUNTY the underlying digital files in a format accessible to the COUNTY, along with information regarding what software programs were used to create the intellectual property. The digital files must be in a format to allow modifications to the intellectual property, it may not solely be a .pdf copy of the intellectual property. The COMPANY agrees that it (and any subcontractors that it hires) will use only commercially available software to create intellectual property for the COUNTY. COMPANY will not use proprietary non-commercial technology to create intellectual property for COUNTY use.

The COMPANY warrants that the proper authorizations have been granted or will be obtained for use of the intellectual property developed under this Agreement. The COMPANY agrees to be responsible for any claims arising with respect to the COUNTY's use of intellectual property produced under this Agreement.

The COMPANY agrees that its proposal for this work factored the costs of this section into its proposal and that no additional compensation is owed by the COUNTY.

SECTION X - REUSE OF DOCUMENTS

The COMPANY may not reuse data or work products exclusively developed for this Agreement without express written permission of the COUNTY.

SECTION XI - NOTICES

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

COUNTY:

Carolina Alvarez
Engineer II
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bld. A.
Viera, FL 32940

COMPANY:

Leesa Souto
Executive Director
Marine Resources Council
3275 Dixie Hwy, NE
Palm Bay, FL 32905

SECTION XII - AUDIT RIGHTS

In performance of this Agreement, the COMPANY shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the COMPANY in conjunction with this Agreement, and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COMPANY shall retain all documents, books and records for a period of five (5) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the COMPANY by the COUNTY in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible

with the information technology systems of the COUNTY.

The COMPANY shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the COMPANY does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, the COMPANY may transfer, at no cost to the COUNTY, all public records in possession of the COMPANY. If the COMPANY transfers all public records to the COUNTY upon termination of the Agreement, the COMPANY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

SECTION XIII – PUBLIC RECORDS

Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the COMPANY of the request and the COMPANY must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of Sections 119.07. The COMPANY may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the COUNTY'S public records custodian designated below.

If the COMPANY fails to provide the requested public records to the COUNTY within a reasonable time, the COMPANY may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The COMPANY'S failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the COUNTY face any legal action to enforce inspection or production of the

records within the COMPANY'S possession and control, The COMPANY agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The COMPANY shall hire and compensate attorney(s) to represent the COMPANY and COUNTY in defending such action. The COMPANY shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: MARY BLAKELY AT 321-633-2014 MARY.BLAKEY@BREVARDFL.GOV or at the mailing address below:

Natural Resources Management Department
2725 Judge Fran Jamieson Way, Suite A-217
Melbourne, FL 32940

SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

The COMPANY:

- A. 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 COMPANY during the term of the contract; and
- B. shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise 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; and

C. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the COMPANY'S enrollment in the program. This includes maintaining a copy of proof of the COMPANY'S and subcontractors' enrollment in the E-Verify Program.

D. Compliance with the terms of this section is made an express condition of this Agreement and the COUNTY may treat a failure to comply as a material breach of this Agreement.

SECTION XV - SUBCONTRACTING

The COMPANY shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the COMPANY shall cause the names of any subcontracted COMPANYs responsible for major portions (or separate specialty) of the work to be inserted in pertinent documents or data.

SECTION XVI - INDEPENDENT CONTRACTOR

The COUNTY contracts for the services of the COMPANY as an independent contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties. Neither party shall have the authority to enter into any agreements of any kind on behalf of the other, or to bind or obligate the other to any third party.

SECTION XVII - TRADEMARKS AND COUNTY SEAL

Use of official county and municipal seals without the express approval of the governing body is controlled by Section 165.043, Florida Statute. The COMPANY may

only use the official County Seal after obtaining written approval from the County Manager, or designee. Likewise, the COMPANY may only use other trademarked or licensed logos of Brevard County with written approval of the County Manager, or designee. Permission is not guaranteed. The County Manager, or designee, may approve or deny such approval, in the County Manager's sole discretion. It is the COMPANY's responsibility to check the intellectual property status of presumed County logos before use, and to inquire and obtain the proper permissions as discussed under Section IX, at no additional cost to the County. Failure or refusal by the COMPANY to comply with the terms and conditions of this Section shall entitle the COUNTY to terminate this Agreement.

SECTION XVIII - ATTORNEY'S FEES

In the event of any legal action to interpret or enforce the terms of this Agreement or any provision hereof, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

SECTION XIX – VENUE

Venue for any legal action brought by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for **Brevard County, Florida.**

SECTION XX - GOVERNING LAW

This Agreement shall be deemed to have been executed and entered into the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

SECTION XXI - CONTINGENT FEES

The COMPANY warrants that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission,

percentage, brokerage or contingent fee, accepting bona fide employee, any fee commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT

- A. If through any cause, the COMPANY shall fail to fulfill its obligations under this Agreement, or if the COMPANY violates any of the covenants, agreements, or stipulations of this Agreement, the COUNTY shall have the right to terminate this Agreement by giving written notice to the COMPANY of such termination, specifying the effective date thereof. Notice shall be given at least ten (10) days before the effective date of such termination.
- B. The COUNTY reserves the right to terminate this Agreement, without cause, upon thirty (30) days written notice.
- C. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the COMPANY shall be payment for those portions of satisfactorily, completely, performed work previously authorized. Such payment shall be determined on the basis of the hours of work performed by the COMPANY, or the percentage or work complete as estimated by the COMPANY and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the COMPANY, elect to employ other persons to perform the same or similar services.
- D. The terms of this Agreement may be modified upon the mutual agreement of the COMPANY and the COUNTY as confirmed in writing.
- E. In the event that the COMPANY changes names, merges with another

company, becomes a subsidiary or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms described above.

- F. In the event of termination of this Agreement the COMPANY agrees to surrender any and all documents prepared by the COMPANY for the COUNTY in connection with this Agreement, of which, the COUNTY will shall have full ownership thereof, COMPANY shall retain copies of such documents for record purposes.

SECTION XXIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after its date of execution, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. In addition, subject to the COUNTY'S sole discretion, this Agreement may be extended in one (1) year increments for up to five (5) years beyond the initial one (1) year period of the agreement.

SECTION XXIV - DEFAULT

In the event the COMPANY fails to comply with the provisions of this Agreement, the COUNTY may declare the COMPANY in default by written notification. In the event partial payment has been made for professional services not completed, the COMPANY shall return any sums due to the COUNTY as a result of COMPANY'S default within ten (10) days after notice and demand that said sums are due. The COMPANY shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful to the COUNTY or by any other company retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the COMPANY'S Agreement.

SECTION XXV - INSURANCE

The COMPANY will be required to procure and maintain, at their own expense and without cost to the COUNTY, until final acceptance by the COUNTY of all products or services covered by this Agreement, the following types of insurance. The policy limits required are to be considered minimum amounts.

- A. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include the following coverages: Operations, Products and Completed Operations, Personal Injury, Contractual Liability covering this contract.
- B. Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with \$1,000,000 combined single limit for each occurrence.
- C. Workers' Compensation and Employers Liability Insurance covering all persons conducting operations on the COUNTY'S premises or on behalf of the COUNTY.
- D. Professional Liability Insurance in the amount of \$1,000,000 per claim covering the risk of errors and omissions in the professional services provided under this Agreement. Such coverage written on a "claims made" basis shall be maintained in force for five years after the final payment of services.

The COMPANY shall provide certificates of insurance to the COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Agreement. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the COUNTY as an additional insured. All policies will be endorsed to the effect that they may not be cancelled or modified without thirty (30) days prior written notice to the COUNTY.

The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the COMPANY under the terms of the contract. Sub-COMPANY's insurance shall be the responsibility of the COMPANY.

SECTION XXVI – INDEMNIFICATION

The COMPANY shall hold the COUNTY harmless against any and all claims for bodily injury, sickness, disease, death, personal injury, damage to property or loss of use of any property or assets resulting therefrom, arising out of or resulting from the performance of the products or from the services for which the COUNTY is contracting hereunder, provided such is caused in whole or in part by any negligent act or omission of the COMPANY, or any subcontractor or any of their agents or employees, or arises from a job-related injury.

The COMPANY agrees to indemnify the COUNTY and pay the cost of the COUNTY'S legal defenses, including fees of attorneys as may be selected by the COUNTY, for all claims described in the hold harmless clause herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the County's exclusive remedy.

Further, the COMPANY shall fully indemnify, defend, and hold harmless the COUNTY from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to the extent such claims arise as a result of the COMPANY'S implementation of a County-originated design and/or specifications or materials provided to the COMPANY by COUNTY, COUNTY'S misuse or modification of the COMPANY'S products or COUNTY'S operation or use of the COMPANY'S products in a manner not contemplated by the Agreement or the task order.

If any work product used in services is the subject of an infringement suit, or in the COMPANY'S opinion is likely to become the subject of such a suit, the COMPANY may, at its sole expense, procure for the COUNTY the right to continue using the product or to modify it to become non-infringing. If the COMPANY is not reasonably able to modify or otherwise secure the COUNTY the right to continue using the product, the

COMPANY shall remove the product and refund the COUNTY the amounts paid in excess of a reasonable fee for past use. The COUNTY shall not be liable for any royalties.

The COMPANY'S obligations under the preceding paragraphs with respect to any legal action are contingent upon the COUNTY giving the COMPANY (1) prompt written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the COMPANY'S sole expense, and (3) assistance in defending the action at the COMPANY'S sole expense. The COMPANY shall not be liable for any cost, expense, or compromise incurred or made by the COUNTY in any legal action without the COMPANY'S prior written consent, which shall not be unreasonably withheld.

It is agreed by the parties hereto that specific consideration has been received by the COMPANY under this Agreement for this hold harmless/indemnification provision.

SECTION XXVII - QUALITY CONTROL

The COMPANY agrees to a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or data analysis is found to be accurate and reasonable, the COMPANY shall be compensated for the additional work in accordance with Section V of this Agreement.

The COUNTY will evaluate the COMPANY'S performance upon completion of work. The evaluation will be used by the COUNTY in determining the COMPANY'S qualifications for future contracts with the COUNTY.

SECTION XXVIII- NON-EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive agreement and the COUNTY may employ other professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the COMPANY as it may approve in

the sole discretion of the COUNTY.

SECTION XXIX – PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SECTION XXX- INTEREST OF COMMISSIONERS AND OTHERS

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of this PROJECT, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION XXXI - INTEREST OF COMPANY

The COMPANY covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The COMPANY further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

SECTION XXXII - ENTIRETY OF AGREEMENT

This writing, together with documents referenced herein, embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

SECTION XXXIII – SEVERABILITY

In the event a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this Agreement void or unenforceable, the remaining parts of this Agreement shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this Agreement.

SECTION XXXIV – SURVIVAL

The obligations and duties set forth in Sections IX, X, XII, XIII, XVII subsections D, E and F, XVIII, XIV, XX, XXII subsections C and F, XXVI, XXXIII shall survive termination, cancellation or expiration of this Agreement.

SECTION XXXV – EFFECTIVE DATE

The effective date of this Agreement means the date on which the last of the parties hereto executes this Agreement.

SECTION XXXVI - SCRUTINIZED COMPANIES

The COMPANY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY or its subcontractors are found to have submitted a false certification; or if the COMPANY, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the COMPANY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the COMPANY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The COMPANY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this

8 day of JANUARY, 2019.

ATTEST:



A blue ink signature of Scott Ellis, consisting of a stylized 'S' and 'E' followed by a flourish.

Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



A blue ink signature of Kristine Isnardi, featuring a large, flowing 'K' and 'I' followed by a horizontal line.

Kristine Isnardi, Chair

AS APPROVED BY THE BOARD ON: Jan. 8, 2019

Reviewed for legal form and content by:



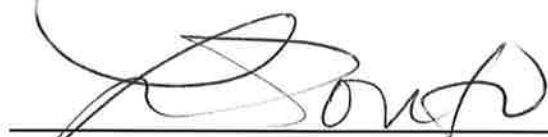
A blue ink signature of Christine Valliere, with a stylized 'C' and 'V' followed by a horizontal line.

Christine Valliere, Assistant County Attorney,

ATTEST:

Company Name.

Marine Resources Council

A handwritten signature in black ink, appearing to read 'Leesa Souto', is written over a horizontal line.

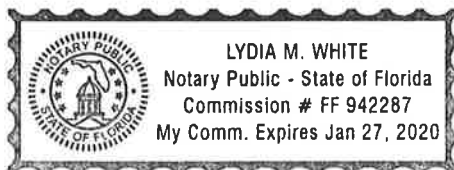
Leesa Souto, Executive Director

STATE OF FLORIDA §
COUNTY OF BREVARD §

I HEREBY CERTIFY that before me, an officer duly authorized to take acknowledgments, personally appeared ASA Saito and N/A to me known to be the President and Secretary of MRC, Inc., or provided as identification and who did (did not) take an oath, acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

30th WITNESS my hand and official seal in the State and County last aforesaid this day of January, 2019.

(SEAL)



Signature

Notary Name (typed or printed)

Title or Rank

EXHIBIT "A"
SCOPE OF SERVICES FOR
SERVICE B
STORMWATER
MARKETING CAMPAIGN SERVICES

Marketing Services may include the following:

- A. Campaign development including strategy, promotion, messaging and design.
- B. Development and implementation of campaigns for businesses and commercial entities.
- C. Evaluating the impact of online and offline marketing and outreach campaigns and brand awareness.
- D. Providing on-going recommendations to improve campaign performance, community impact and future campaigns.
- E. Pilot testing campaign materials and messages.
- F. Digital Marketing.
- G. Grassroots Marketing.
- H. Metrics and Reporting.

EXHIBIT "B"

SCHEDULE OF FEES

Personnel	Main Duties	Hourly Rate
MRC - Leesa Souto	Research, Project Mgmt	\$80.00
MRC - Sondee Lima	Editing, education	\$65.00
MRC - Shannon Egger	Education	\$50.00
MRC - Kate Zehnder	Volunteer Coordination	\$50.00
UC - Kendra Jankowski	Media/General	\$120.00
UC - Matt Morgan	Design/Video	\$100.00
UC - Dorian Morgan	Research, Project Mgmt	\$150.00
Claudia Listopad	Research	\$155.00
Bill Paton	Programmer	\$116.00
Danielle Huffner, Kayleigh Huffner	GIS Technician	\$60.00

Natural Resources Management Department

**GENERAL STORMWATER
POLLUTION PREVENTION OUTREACH
(SERVICE A)**

2725 Judge Fran Jamieson Way,
Bldg. A, Viera, Florida, 32940
321-633-2050

TABLE OF CONTENTS

SECTION I - GENERAL IDENTIFICATION OF SERVICES	1
SECTION II - COUNTY OBLIGATIONS	2
SECTION III - PROFESSIONAL SERVICES.....	2
SECTION IV - TIME OF COMPLETION.....	3
SECTION V - COMPENSATION	3
SECTION VI - PAYMENT AND PARTIAL PAYMENTS.....	3
SECTION VII - SCHEDULE OF WORK	4
SECTION VIII – DISPUTE RESOLUTION	4
SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES.....	5
SECTION X - REUSE OF DOCUMENTS.....	6
SECTION XI - NOTICES	7
SECTION XII - AUDIT RIGHTS.....	7
SECTION XIII – PUBLIC RECORDS	8
SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).....	9
SECTION XV - SUBCONTRACTING	10
SECTION XVI – INDEPENDENT CONTRACTOR	10
SECTION XVII - TRADEMARKS AND COUNTY SEALS.....	11
SECTION XVIII – ATTORNEY’S FEES	11
SECTION XIX – VENUE	11
SECTION XX – GOVERNING LAW	11
SECTION XXI - CONTINGENT FEES.....	12
SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT	12
SECTION XXIII – DURATION OF AGREEMENT.....	13
SECTION XXIV – DEFAULT	13
SECTION XXV - INSURANCE	14
SECTION XXVI - INDEMNIFICATION	15
SECTION XXVII - QUALITY CONTROL	16

SECTION XXVIII – NON-EXCLUSIVE AGREEENT.....	17
SECTION XXIX – PUBLIC ENTITY CRIMES.....	17
SECTION XXX - INTEREST OF COMMISSIONERS AND OTHERS	17
SECTION XXXI - INTEREST OF COMPANY.....	18
SECTION XXXII - ENTIRETY OF AGREEMENT	18
SECTION XXXIII – SEVERABILITY	18
SECTION XXXIV – SURVIVAL	18
SECTION XXXV – EFFECTIVE DATE.....	19
SECTION XXXVI – SCRUTINIZED COMPANIES.....	19

SCOPE OF SERVICES.....	EXHIBIT A
SCHEDULE OF FEES.....	EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

This is an agreement entered into this 8 day of January, 2019, by and between Brevard County a political subdivision of the State of Florida, hereinafter referred to as COUNTY and Marine Resources Council, hereinafter referred to as COMPANY.

WHEREAS, the COUNTY Natural Resources Management Department for the Education and Outreach Services, hereafter referred to as SERVICES described in Exhibit "A" Scope of Services, attached hereto and made a part hereof by this reference.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the COMPANY, and the COMPANY hereby covenants to provide professional services as prescribed herein.

SECTION I - GENERAL IDENTIFICATION OF SERVICES

All professional services provided by the COMPANY for the COUNTY shall be identified in the Scope of Services, exhibit "A". Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation and a projected schedule for completion of the work to be performed by the COMPANY. No additional work shall be performed under this Agreement without a written Notice to Proceed signed by the Chairman of the Board of County Commissioners or other authorized representative of the COUNTY where approved by Board action. The written Notice to Proceed for additional services shall constitute an addendum to this Agreement.

Services required for the General Outreach Services will be provided in the unincorporated areas and within the jurisdictions of partnering municipalities. The Services will support stormwater pollution prevention, the NPDES permit compliance and the BMAP outreach needs.

SECTION II - COUNTY OBLIGATIONS

The COUNTY agrees that they shall furnish to the COMPANY, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

SECTION III - PROFESSIONAL SERVICES

Upon receipt of Notice to Proceed, COMPANY agrees to perform professional services associated with an individual work order in accordance with the negotiated terms of this Agreement, and in accordance with accepted professional standards and practices. The COMPANY warrants the adequacy of work provided under this Agreement and Work Orders, and agrees to correct any errors and omissions that may be required because work was found defective. This remedy shall be cumulative to all other remedies available under law.

In connection with the services to be rendered pursuant to this Agreement, the COMPANY further agrees to:

- A. Maintain an adequate staff of qualified personnel.
- B. Comply with federal, state and local laws, ordinances, or contract applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all the work.
- D. Cooperate and coordinate with other COUNTY CONSULTANT's, as directed by the COUNTY.
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, photos, art work, reports, notes, records, sketches, printed material, lesson plans, and other pertinent documents open to the inspection of the COUNTY or its authorized agent at any time.
- F. Submit for COUNTY review, sketches, work plans, survey, proposals and other work representative of the Services progress, which may be stipulated in an

individual Work Order .

- G. Submit for COUNTY approval the final work product upon incorporation of any modifications requested by the COUNTY during any previous review.
- H. Obtain and maintain any and all licenses, permits, franchises, governmental authorizations, including permission to use patents, **trademarks**, copyrights or other rights necessary to perform the Services as may be required from time to time by applicable law.

SECTION IV - TIME OF COMPLETION

The services to be rendered by the COMPANY shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement and shall be completed within the time stated in the Work Order.

SECTION V - COMPENSATION

The COUNTY agrees to pay and the COMPANY agrees to accept, for the services described in Exhibit "A" pursuant to this Agreement, and stated in a Work Order, fees and other compensation as described in Exhibit "B", and as described in the individual Work Orders..

Additional Services under this Agreement shall, if required and requested, be compensated in accordance with the attached Exhibit "B", Schedule of Fees.

SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the COMPANY for all authorized work performed during the previous calendar month, and in accordance with Exhibit "B" and individual Work Orders

- A. Invoices shall include a breakdown for each part of the work billed and

personnel as identified in Exhibit "B".

- B. The COMPANY shall provide a schedule of work with anticipated costs for each milestone in the schedule.
- C. The COUNTY shall adhere to the Florida Prompt Payment Act, Sections 218.80 through 218.80, Florida Statutes and the COUNTY Administrative Order AO-33 for prompt payment of invoices.

SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine the units or sections of the work on which the COMPANY shall proceed and in what order. Should a work revision effect a change in scope, cost or schedule, the COMPANY shall submit such revisions for review and, if warranted, approval by the COUNTY in writing. All the work under this Agreement is to be completed on an annual basis.

SECTION VIII – DISPUTE RESOLUTION

All services shall be performed by the COMPANY to reasonable professional standards and practices, and to the reasonable requirements of the COUNTY. The COUNTY Central Services Director or designee shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be written and shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the COMPANY does not concur with the decisions of the COUNTY, within ten (10) days after determination by the Central Services Director or designee, the COMPANY shall present any such objections in writing to the COUNTY Central Services Director and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Natural Resources Management Department, County Manager's Office and the Central Services Office for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that

prior to filing any suit the COMPANY goes through the appeal process established in this Agreement and provided further that the COMPANY strictly abides by the ten-day time deadline set forth in this paragraph.

SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES

Intellectual property includes, but is not limited to, documents, photographs, art work, reports, educating plans, ideas, marketing material (video, music, print ads, slogans, TV, Media, online, art work, radio), website development, press releases, maps, contract documents, logos, slogans, taglines, branding, advertising and educational materials, curricula, powerpoint slides, supplementary works, compilations, derivative works and all other work product developed by the COMPANY pursuant to this Agreement, whether used or not used.

It is likely that each Work Order issued under this Agreement will include work that is specially ordered or commissioned as a “work made for hire” under 17 U.S.C. § 101. In such case, where the Work Order states the work product is specially ordered as a “work made for hire,” the COMPANY agrees that the COUNTY is the exclusive owner of all work product ordered or commissioned under that Work Order which qualifies as a “work made for hire,” as that term is defined in 17 U.S.C. § 101, without restrictions or limitations upon its use.

For all other work that is not specially ordered or commissioned as a “work made for hire” on the Work Order, the COMPANY grants to the COUNTY or agrees to obtain for the COUNTY a royalty free, world-wide, nonexclusive, irrevocable, unlimited license right in intellectual property produced, used, or modified pursuant to this Agreement, without restrictions or limitations upon its use. Such licenses will include an express right for the COUNTY to further sub-license the intellectual property without restriction. Such licenses will be promptly provided in writing to the COUNTY with delivery of the work.

All copyrightable materials produced pursuant to this Agreement shall be marked and dated by the COMPANY in such a manner as to preserve and protect the legal

rights of the COUNTY.

The COMPANY agrees to obtain, or cause to be obtained, any other releases, permits or authorization necessary for the use of photographs, copyrighted materials, art work or any other property or rights belonging to a third party for use in performing services for the COUNTY.

When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use. There shall be no additional compensation for the rights and property granted under this paragraph.

The COMPANY further agrees that upon request or upon expiration, cancellation or termination of this Agreement, the COMPANY will provide COUNTY the underlying digital files in a format accessible to the COUNTY, along with information regarding what software programs were used to create the intellectual property. The digital files must be in a format to allow modifications to the intellectual property, it may not solely be a .pdf copy of the intellectual property. The COMPANY agrees that it (and any subcontractors that it hires) will use only commercially available software to create intellectual property for the COUNTY. COMPANY will not use proprietary non-commercial technology to create intellectual property for COUNTY use.

The COMPANY warrants that the proper authorizations have been granted or will be obtained for use of the intellectual property developed under this Agreement. The COMPANY agrees to be responsible for any claims arising with respect to the COUNTY's use of intellectual property produced under this Agreement.

The COMPANY agrees that its proposal for this work factored the costs of this section into its proposal and that no additional compensation is owed by the COUNTY.

SECTION X - REUSE OF DOCUMENTS

The COMPANY may not reuse data or work products exclusively developed for this Agreement without express written permission of the COUNTY.

SECTION XI - NOTICES

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

COUNTY:

Carolina Alvarez
Engineer II
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bld. A.
Viera, FL 32940

COMPANY:

Leesa Souto
Executive Director
Marine Resources Council
3275 Dixie Hwy NE
Palm Bay, FL 32905

SECTION XII - AUDIT RIGHTS

In performance of this Agreement, the COMPANY shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the COMPANY in conjunction with this Agreement, and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COMPANY shall retain all documents, books and records for a period of five (5) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the COMPANY by the COUNTY in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible

with the information technology systems of the COUNTY.

The COMPANY shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the COMPANY does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, the COMPANY may transfer, at no cost to the COUNTY, all public records in possession of the COMPANY. If the COMPANY transfers all public records to the COUNTY upon termination of the Agreement, the COMPANY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

SECTION XIII – PUBLIC RECORDS

Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the COMPANY of the request and the COMPANY must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of Sections 119.07. The COMPANY may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the COUNTY'S public records custodian designated below.

If the COMPANY fails to provide the requested public records to the COUNTY within a reasonable time, the COMPANY may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The COMPANY'S failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the COUNTY face any legal action to enforce inspection or production of the

records within the COMPANY'S possession and control, The COMPANY agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The COMPANY shall hire and compensate attorney(s) to represent the COMPANY and COUNTY in defending such action. The COMPANY shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: MARY BLAKELY AT 321-633-2014 MARY.BLAKEY@BREVARDFL.GOV or at the mailing address below:

Natural Resources Management Department
2725 Judge Fran Jamieson Way, Suite A-217
Melbourne, FL 32940

SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

The COMPANY:

- A. 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 COMPANY during the term of the contract; and
- B. shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise 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;

and

C. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the COMPANY'S enrollment in the program. This includes maintaining a copy of proof of the COMPANY'S and subcontractors' enrollment in the E-Verify Program.

D. Compliance with the terms of this section is made an express condition of this Agreement and the COUNTY may treat a failure to comply as a material breach of this Agreement.

SECTION XV - SUBCONTRACTING

The COMPANY shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the COMPANY shall cause the names of any subcontracted COMPANYs responsible for major portions (or separate specialty) of the work to be inserted in pertinent documents or data.

SECTION XVI - INDEPENDENT CONTRACTOR

The COUNTY contracts for the services of the COMPANY as an independent contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties. Neither party shall have the authority to enter into any agreements of any kind on behalf of the other, or to bind or obligate the other to any third party.

SECTION XVII - TRADEMARKS AND COUNTY SEAL

Use of official county and municipal seals without the express approval of the governing body is controlled by Section 165.043, Florida Statute. The COMPANY may only use the official County Seal after obtaining written approval from the County Manager, or designee. Likewise, the COMPANY may only use other trademarked or licensed logos of Brevard County with written approval of the County Manager, or designee. Permission is not guaranteed. The County Manager, or designee, may approve or deny such approval, in the County Manager's sole discretion. It is the COMPANY's responsibility to check the intellectual property status of presumed County logos before use, and to inquire and obtain the proper permissions as discussed under Section IX, at no additional cost to the County. Failure or refusal by the COMPANY to comply with the terms and conditions of this Section shall entitle the COUNTY to terminate this Agreement.

SECTION XVIII - ATTORNEY'S FEES

In the event of any legal action to interpret or enforce the terms of this Agreement or any provision hereof, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

SECTION XIX – VENUE

Venue for any legal action brought by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for **Brevard County, Florida**.

SECTION XX - GOVERNING LAW

This Agreement shall be deemed to have been executed and entered into the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

SECTION XXI - CONTINGENT FEES

The COMPANY warrants that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, accepting bona fide employee, any fee commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT

- A. If through any cause, the COMPANY shall fail to fulfill its obligations under this Agreement, or if the COMPANY violates any of the covenants, agreements, or stipulations of this Agreement, the COUNTY shall have the right to terminate this Agreement by giving written notice to the COMPANY of such termination, specifying the effective date thereof. Notice shall be given at least ten (10) days before the effective date of such termination.
- B. The COUNTY reserves the right to terminate this Agreement, without cause, upon thirty (30) days written notice.
- C. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the COMPANY shall be payment for those portions of satisfactorily, completely, performed work previously authorized. Such payment shall be determined on the basis of the hours of work performed by the COMPANY, or the percentage or work complete as estimated by the COMPANY and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the

COUNTY may, without penalty or other obligation to the COMPANY, elect to employ other persons to perform the same or similar services.

- D. The terms of this Agreement may be modified upon the mutual agreement of the COMPANY and the COUNTY as confirmed in writing.
- E. In the event that the COMPANY changes names, merges with another company, becomes a subsidiary or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms described above.
- F. In the event of termination of this Agreement the COMPANY agrees to surrender any and all documents prepared by the COMPANY for the COUNTY in connection with this Agreement, of which, the COUNTY will shall have full ownership thereof, COMPANY shall retain copies of such documents for record purposes.

SECTION XXIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after its date of execution, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. In addition, subject to the COUNTY'S sole discretion, this Agreement may be extended in one (1) year increments for up to five (5) years beyond the initial one (1) year period of the agreement.

SECTION XXIV - DEFAULT

In the event the COMPANY fails to comply with the provisions of this Agreement, the COUNTY may declare the COMPANY in default by written notification. In the event partial payment has been made for professional services not completed, the COMPANY shall return any sums due to the COUNTY as a result of COMPANY'S default within ten (10) days after notice and demand that said sums are due. The COMPANY shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that

portion, if any, of the performed work which is used or useful to the COUNTY or by any other company retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the COMPANY'S Agreement.

SECTION XXV - INSURANCE

The COMPANY will be required to procure and maintain, at their own expense and without cost to the COUNTY, until final acceptance by the COUNTY of all products or services covered by this Agreement, the following types of insurance. The policy limits required are to be considered minimum amounts.

- A. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include the following coverages: Operations, Products and Completed Operations, Personal Injury, Contractual Liability covering this contract.
- B. Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with \$1,000,000 combined single limit for each occurrence.
- C. Workers' Compensation and Employers Liability Insurance covering all persons conducting operations on the COUNTY'S premises or on behalf of the COUNTY.
- D. Professional Liability Insurance in the amount of \$1,000,000 per claim covering the risk of errors and omissions in the professional services provided under this Agreement. Such coverage written on a "claims made" basis shall be maintained in force for five years after the final payment of services.

The COMPANY shall provide certificates of insurance to the COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Agreement. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the COUNTY as an additional insured. All policies will be endorsed to the effect that they may not be cancelled or modified without thirty (30) days prior written notice to the COUNTY.

The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the COMPANY under the terms of the contract. Sub-COMPANY's insurance shall be the responsibility of the COMPANY.

SECTION XXVI – INDEMNIFICATION

The COMPANY shall hold the COUNTY harmless against any and all claims for bodily injury, sickness, disease, death, personal injury, damage to property or loss of use of any property or assets resulting therefrom, arising out of or resulting from the performance of the products or from the services for which the COUNTY is contracting hereunder, provided such is caused in whole or in part by any negligent act or omission of the COMPANY, or any subcontractor or any of their agents or employees, or arises from a job-related injury.

The COMPANY agrees to indemnify the COUNTY and pay the cost of the COUNTY'S legal defenses, including fees of attorneys as may be selected by the COUNTY, for all claims described in the hold harmless clause herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the County's exclusive remedy.

Further, the COMPANY shall fully indemnify, defend, and hold harmless the COUNTY from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to the extent such claims arise as a result of the COMPANY'S implementation of a County-originated design and/or specifications or materials provided to the COMPANY by COUNTY, COUNTY'S misuse or modification of the COMPANY'S products or COUNTY'S operation or use of the COMPANY'S products in a manner not contemplated by the Agreement or the task order.

If any work product used in services is the subject of an infringement suit, or in the

COMPANY'S opinion is likely to become the subject of such a suit, the COMPANY may, at its sole expense, procure for the COUNTY the right to continue using the product or to modify it to become non-infringing. If the COMPANY is not reasonably able to modify or otherwise secure the COUNTY the right to continue using the product, the COMPANY shall remove the product and refund the COUNTY the amounts paid in excess of a reasonable fee for past use. The COUNTY shall not be liable for any royalties.

The COMPANY'S obligations under the preceding paragraphs with respect to any legal action are contingent upon the COUNTY giving the COMPANY (1) prompt written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the COMPANY'S sole expense, and (3) assistance in defending the action at the COMPANY'S sole expense. The COMPANY shall not be liable for any cost, expense, or compromise incurred or made by the COUNTY in any legal action without the COMPANY'S prior written consent, which shall not be unreasonably withheld.

It is agreed by the parties hereto that specific consideration has been received by the COMPANY under this Agreement for this hold harmless/indemnification provision.

SECTION XXVII - QUALITY CONTROL

The COMPANY agrees to a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or data analysis is found to be accurate and reasonable, the COMPANY shall be compensated for the additional work in accordance with Section V of this Agreement.

The COUNTY will evaluate the COMPANY'S performance upon completion of work. The evaluation will be used by the COUNTY in determining the COMPANY'S qualifications for future contracts with the COUNTY.

SECTION XXVIII- NON-EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive agreement and the COUNTY may employ other professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the COMPANY as it may approve in the sole discretion of the COUNTY.

SECTION XXIX – PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SECTION XXX- INTEREST OF COMMISSIONERS AND OTHERS

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of this PROJECT, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION XXXI - INTEREST OF COMPANY

The COMPANY covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The COMPANY further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

SECTION XXXII - ENTIRETY OF AGREEMENT

This writing, together with documents referenced herein, embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

SECTION XXXIII – SEVERABILITY

In the event a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this Agreement void or unenforceable, the remaining parts of this Agreement shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this Agreement.

SECTION XXXIV – SURVIVAL

The obligations and duties set forth in Sections IX, X, XII, XIII, XVII subsections D, E and F, XVIII, XIV, XX, XXII subsections C and F, XXVI, XXXIII shall survive termination, cancellation or expiration of this Agreement.

SECTION XXXV – EFFECTIVE DATE

The effective date of this Agreement means the date on which the last of the parties hereto executes this Agreement.

SECTION XXXVI - SCRUTINIZED COMPANIES

The COMPANY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY or its subcontractors are found to have submitted a false certification; or if the COMPANY, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the COMPANY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the COMPANY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The COMPANY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this
8 day of JANUARY, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

A blue ink signature of Scott Ellis, written over a horizontal line.

Scott Ellis, Clerk

A blue ink signature of Kristine Isnardi, written over a horizontal line.

Kristine Isnardi, Chair

AS APPROVED BY THE BOARD ON: Jan. 8, 2019

Reviewed for legal form and content by:

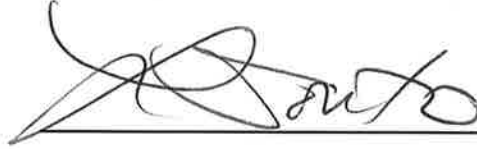
A blue ink signature of Christine Valliere, written over a horizontal line.

Christine Valliere, Assistant County Attorney,

ATTEST:

Company Name.

Marine Resources Council

A handwritten signature in black ink, appearing to read 'Leesa Souto', is written over a horizontal line.

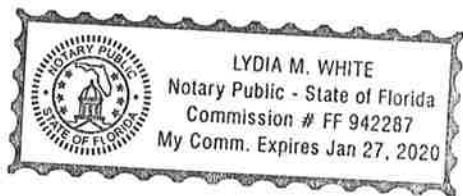
Leesa Souto, Executive Director

STATE OF FLORIDA §
COUNTY OF BREVARD §

I HEREBY CERTIFY that before me, an officer duly authorized to take acknowledgments, personally appeared Lisa Souto and N/A to me known to be the Executive Director of MRC Inc., or provided as identification and who did (did not) take an oath, acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

30 WITNESS my hand and official seal in the State and County last aforesaid this day of January, 2019.

(SEAL)



Signature

Notary Name (typed or printed)

Title or Rank

EXHIBIT "A"
SCOPE OF SERVICES
GENERAL POLLUTION PREVENTION OUTREACH
SERVICE A

The COMPANY shall be responsible at a minimum for the following:

- A. Preparing, planning, coordinating, creating materials, scheduling events, presenting, collecting and reporting metrics, performing all education activities in accordance with the deliverable point system established with the Consortium Partners (Attachment "A"), and posting. A variety of engaging education programs involving stormwater pollution prevention for children, adults, retail and commercial establishments; will be used.
- B. Securing a list of requested deliverables for the geographic area of each Consortium Partner based on the point values.
- C. Serve as the prime point of contact for the Education Program and serve as the primary coordinator of all Program activities to be determined in each Work Order.
- D. Prepare monthly reports summarizing all activities to be submitted to the County, and the Consortium Partners. The reports shall list the specific deliverables performed, name, location, date performed; the point value, number of volunteers (when applicable), number and name of printed material distributed, number of children and/or adult reached, sign in sheet (when applicable), printed document indicating acceptance to participate in event (email, invitation or registration).

Provide recommendations to maximize outreach efficiency and effectiveness.

EXHIBIT "B"
SCHEDULE OF FEES

Personnel	Main Duties	Hourly Rate
MRC - Leesa Souto	Research, Project Mgmt	\$80.00
MRC - Sondee Lima	Editing, education	\$65.00
MRC - Shannon Egger	Education	\$50.00
MRC - Kate Zehnder	Volunteer Coordination	\$50.00
Claudia Listopad	Research	\$155.00
Bill Paton	Programmer	\$116.00
Danielle Huffner, Kayleigh Huffner	GIS Technician	\$60.00

Natural Resources Management Department

**STORMWATER MARKETING CAMPAIGN
SERVICES AGREEMENT
(SERVICE B)**

2725 Judge Fran Jamieson Way,
Bldg. A, Viera, Florida, 32940
321-633-2050

TABLE OF CONTENTS

SECTION I - GENERAL IDENTIFICATION OF SERVICES.....	1
SECTION II - COUNTY OBLIGATIONS	2
SECTION III - PROFESSIONAL SERVICES.....	2
SECTION IV - TIME OF COMPLETION.....	3
SECTION V - COMPENSATION	3
SECTION VI - PAYMENT AND PARTIAL PAYMENTS.....	3
SECTION VII - SCHEDULE OF WORK	4
SECTION VIII – DISPUTE RESOLUTION	4
SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES.....	5
SECTION X - REUSE OF DOCUMENTS.....	6
SECTION XI - NOTICES	6
SECTION XII - AUDIT RIGHTS.....	7
SECTION XIII – PUBLIC RECORDS	8
SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).....	9
SECTION XV - SUBCONTRACTING	10
SECTION XVI – INDEPENDENT CONTRACTOR.....	10
SECTION XVII - TRADEMARKS AND COUNTY SEALS.....	11
SECTION XVIII – ATTORNEY’S FEES	11
SECTION XIX – VENUE	11
SECTION XX – GOVERNING LAW	11
SECTION XXI - CONTINGENT FEES.....	11
SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT	12
SECTION XXIII – DURATION OF AGREEMENT.....	13
SECTION XXIV – DEFAULT	13
SECTION XXV - INSURANCE	13
SECTION XXVI - INDEMNIFICATION	14
SECTION XXVII - QUALITY CONTROL	16

SECTION XXVIII – NON-EXCLUSIVE AGREEENT	16
SECTION XXIX – PUBLIC ENTITY CRIMES	16
SECTION XXX - INTEREST OF COMMISSIONERS AND OTHERS	17
SECTION XXXI - INTEREST OF COMPANY.....	17
SECTION XXXII - ENTIRETY OF AGREEMENT	17
SECTION XXXIII – SEVERABILITY	17
SECTION XXXIV – SURVIVAL	18
SECTION XXXV – EFFECTIVE DATE.....	18
SECTION XXXVI – SCRUTINIZED COMPANIES.....	18
SCOPE OF SERVICES	EXHIBIT A
SCHEDULE OF FEES.....	EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

This is an agreement entered into this 31 day of January, 2019, by and between Brevard County a political subdivision of the State of Florida, hereinafter referred to as COUNTY and MTN ADVERTISING hereinafter referred to as COMPANY.

WHEREAS, the COUNTY Natural Resources Management Department for the Education and Outreach Services, hereafter referred to as SERVICES described in Exhibit "A" Scope of Services, attached hereto and made a part hereof by this reference.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the COMPANY, and the COMPANY hereby covenants to provide professional services as prescribed herein.

SECTION I - GENERAL IDENTIFICATION OF SERVICES

All professional services provided by the COMPANY for the COUNTY shall be identified in the Scope of Services, exhibit "A". Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation and a projected schedule for completion of the work to be performed by the COMPANY. No additional work shall be performed under this Agreement without a written Notice to Proceed signed by the Chairman of the Board of County Commissioners or other authorized representative of the COUNTY where approved by Board action. The written Notice to Proceed for additional services shall constitute an addendum to this Agreement.

Services required for the General Outreach Services will be provided in the unincorporated areas and within the jurisdictions of partnering municipalities. The Services will support stormwater pollution prevention, the NPDES permit compliance and the BMAP outreach needs.

SECTION II - COUNTY OBLIGATIONS

The COUNTY agrees that they shall furnish to the COMPANY, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

SECTION III - PROFESSIONAL SERVICES

Upon receipt of Notice to Proceed, COMPANY agrees to perform professional services associated with an individual work order in accordance with the negotiated terms of this Agreement, and in accordance with accepted professional standards and practices. The COMPANY warrants the adequacy of work provided under this Agreement and Work Orders, and agrees to correct any errors and omissions that may be required because work was found defective. This remedy shall be cumulative to all other remedies available under law.

In connection with the services to be rendered pursuant to this Agreement, the COMPANY further agrees to:

- A. Maintain an adequate staff of qualified personnel.
 - B. Comply with federal, state and local laws, ordinances, or contract applicable to the work.
 - C. Cooperate fully with the COUNTY in the scheduling and coordination of all the work.
 - D. Cooperate and coordinate with other COUNTY CONSULTANT's, as directed by the COUNTY.
 - E. Report the status of the work to the COUNTY upon request and hold pertinent data, photos, art work, reports, notes, records, sketches, printed material, lesson plans, and other pertinent documents open to the inspection of the COUNTY or its authorized agent at any time.
 - F. Submit for COUNTY review, sketches, work plans, survey, proposals and other work representative of the Services progress, which may be stipulated in an individual Work Order .
 - G. Submit for COUNTY approval the final work product upon incorporation of any
- Stormwater Marketing Campaign – Service B – MTN

modifications requested by the COUNTY during any previous review.

- H. Obtain and maintain any and all licenses, permits, franchises, governmental authorizations, including permission to use patents, **trademarks**, copyrights or other rights necessary to perform the Services as may be required from time to time by applicable law.

SECTION IV - TIME OF COMPLETION

The services to be rendered by the COMPANY shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement and shall be completed within the time stated in the Work Order.

SECTION V - COMPENSATION

The COUNTY agrees to pay and the COMPANY agrees to accept, for the services described in Exhibit "A" pursuant to this Agreement, and stated in a Work Order, fees and other compensation as described in Exhibit "B", and as described in the individual Work Orders..

Additional Services under this Agreement shall, if required and requested, be compensated in accordance with the attached Exhibit "B", Schedule of Fees.

SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the COMPANY for all authorized work performed during the previous calendar month, and in accordance with Exhibit "B" and individual Work Orders

- A. Invoices shall include a breakdown for each part of the work billed and personnel as identified in Exhibit "B".

- B. The COMPANY shall provide a schedule of work with anticipated costs for each milestone in the schedule.

C. The COUNTY shall adhere to the Florida Prompt Payment Act, Sections 218.80 through 218.80, Florida Statutes and the COUNTY Administrative Order AO-33 for prompt payment of invoices.

SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine the units or sections of the work on which the COMPANY shall proceed and in what order. Should a work revision effect a change in scope, cost or schedule, the COMPANY shall submit such revisions for review and, if warranted, approval by the COUNTY in writing. All the work under this Agreement is to be completed on an annual basis.

SECTION VIII – DISPUTE RESOLUTION

All services shall be performed by the COMPANY to reasonable professional standards and practices, and to the reasonable requirements of the COUNTY. The COUNTY Central Services Director or designee shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be written and shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the COMPANY does not concur with the decisions of the COUNTY, within ten (10) days after determination by the Central Services Director or designee, the COMPANY shall present any such objections in writing to the COUNTY Central Services Director and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Natural Resources Management Department, County Manager's Office and the Central Services Office for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the COMPANY goes through the appeal process established in this Agreement and provided further that the COMPANY strictly abides by the ten-day time deadline set forth in this paragraph.

SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES

Intellectual property includes, but is not limited to, documents, photographs, art work, reports, educating plans, ideas, marketing material (video, music, print ads, slogans, TV, Media, online, art work, radio), website development, press releases, maps, contract documents, logos, slogans, taglines, branding, advertising and educational materials, curricula, powerpoint slides, supplementary works, compilations, derivative works and all other work product developed by the COMPANY pursuant to this Agreement, whether used or not used.

It is likely that each Work Order issued under this Agreement will include work that is specially ordered or commissioned as a "work made for hire" under 17 U.S.C. § 101. In such case, where the Work Order states the work product is specially ordered as a "work made for hire," the COMPANY agrees that the COUNTY is the exclusive owner of all work product ordered or commissioned under that Work Order which qualifies as a "work made for hire," as that term is defined in 17 U.S.C. § 101, without restrictions or limitations upon its use.

For all other work that is not specially ordered or commissioned as a "work made for hire" on the Work Order, the COMPANY grants to the COUNTY or agrees to obtain for the COUNTY a royalty free, world-wide, nonexclusive, irrevocable, unlimited license right in intellectual property produced, used, or modified pursuant to this Agreement, without restrictions or limitations upon its use. Such licenses will include an express right for the COUNTY to further sub-license the intellectual property without restriction. Such licenses will be promptly provided in writing to the COUNTY with delivery of the work.

All copyrightable materials produced pursuant to this Agreement shall be marked and dated by the COMPANY in such a manner as to preserve and protect the legal rights of the COUNTY.

The COMPANY agrees to obtain, or cause to be obtained, any other releases, permits or authorization necessary for the use of photographs, copyrighted materials, art work or any other property or rights belonging to a third party for use in performing services for the COUNTY.

When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use. There shall be no additional compensation for the rights and property granted under this paragraph.

The COMPANY further agrees that upon request or upon expiration, cancellation or termination of this Agreement, the COMPANY will provide COUNTY the underlying digital files in a format accessible to the COUNTY, along with information regarding what software programs were used to create the intellectual property. The digital files must be in a format to allow modifications to the intellectual property, it may not solely be a .pdf copy of the intellectual property. The COMPANY agrees that it (and any subcontractors that it hires) will use only commercially available software to create intellectual property for the COUNTY. COMPANY will not use proprietary non-commercial technology to create intellectual property for COUNTY use.

The COMPANY warrants that the proper authorizations have been granted or will be obtained for use of the intellectual property developed under this Agreement. The COMPANY agrees to be responsible for any claims arising with respect to the COUNTY's use of intellectual property produced under this Agreement.

The COMPANY agrees that its proposal for this work factored the costs of this section into its proposal and that no additional compensation is owed by the COUNTY.

SECTION X - REUSE OF DOCUMENTS

The COMPANY may not reuse data or work products exclusively developed for this Agreement without express written permission of the COUNTY.

SECTION XI - NOTICES

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

COUNTY:

Carolina Alvarez
Engineer II
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bld. A.
Viera, FL 32940

COMPANY:

MTN Advertising
Walter Wood
President
1355 S. Patrick Dr.
Satellite Beach, FL 32937

SECTION XII - AUDIT RIGHTS

In performance of this Agreement, the COMPANY shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the COMPANY in conjunction with this Agreement, and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COMPANY shall retain all documents, books and records for a period of five (5) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the COMPANY by the COUNTY in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible with the information technology systems of the COUNTY.

The COMPANY shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the COMPANY does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, the COMPANY may transfer, at no cost to the COUNTY, all public records in possession of the COMPANY.

Stormwater Marketing Campaign – Service B – MTN

If the COMPANY transfers all public records to the COUNTY upon termination of the Agreement, the COMPANY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

SECTION XIII – PUBLIC RECORDS

Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the COMPANY of the request and the COMPANY must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of Sections 119.07. The COMPANY may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the COUNTY'S public records custodian designated below.

If the COMPANY fails to provide the requested public records to the COUNTY within a reasonable time, the COMPANY may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The COMPANY'S failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the COUNTY face any legal action to enforce inspection or production of the records within the COMPANY'S possession and control, The COMPANY agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The COMPANY shall hire and compensate attorney(s) to represent the COMPANY and COUNTY in defending such action. The COMPANY shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: MARY BLAKELY AT 321-633-2014 MARY.BLAKEY@BREVARDFL.GOV or at the mailing address below:

Natural Resources Management Department
2725 Judge Fran Jamieson Way, Suite A-217
Melbourne, FL 32940

SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

The COMPANY:

- A. 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 COMPANY during the term of the contract; and
- B. shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise 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; and
- C. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the COMPANY'S enrollment in the program. This includes maintaining a copy of proof of the COMPANY'S and subcontractors' enrollment in the E-Verify Program.

D. Compliance with the terms of this section is made an express condition of this Agreement and the COUNTY may treat a failure to comply as a material breach of this Agreement.

SECTION XV - SUBCONTRACTING

The COMPANY shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the COMPANY shall cause the names of any subcontracted COMPANYS responsible for major portions (or separate specialty) of the work to be inserted in pertinent documents or data.

SECTION XVI - INDEPENDENT CONTRACTOR

The COUNTY contracts for the services of the COMPANY as an independent contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties. Neither party shall have the authority to enter into any agreements of any kind on behalf of the other, or to bind or obligate the other to any third party.

SECTION XVII - TRADEMARKS AND COUNTY SEAL

Use of official county and municipal seals without the express approval of the governing body is controlled by Section 165.043, Florida Statute. The COMPANY may only use the official County Seal after obtaining written approval from the County Manager, or designee. Likewise, the COMPANY may only use other trademarked or licensed logos of Brevard County with written approval of the County Manager, or designee. Permission is not guaranteed. The County Manager, or designee, may approve or deny such approval, in the County Manager's sole discretion. It is the COMPANY's responsibility to check the intellectual property status of presumed County logos before use, and to inquire and obtain the proper permissions as discussed under Stormwater Marketing Campaign – Service B – MTN

Section IX, at no additional cost to the County. Failure or refusal by the COMPANY to comply with the terms and conditions of this Section shall entitle the COUNTY to terminate this Agreement.

SECTION XVIII - ATTORNEY'S FEES

In the event of any legal action to interpret or enforce the terms of this Agreement or any provision hereof, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

SECTION XIX – VENUE

Venue for any legal action brought by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for **Brevard County, Florida.**

SECTION XX - GOVERNING LAW

This Agreement shall be deemed to have been executed and entered into the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

SECTION XXI - CONTINGENT FEES

The COMPANY warrants that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, accepting bona fide employee, any fee commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT

- A. If through any cause, the COMPANY shall fail to fulfill its obligations under this Agreement, or if the COMPANY violates any of the covenants, agreements, or stipulations of this Agreement, the COUNTY shall have the right to terminate this Agreement by giving written notice to the COMPANY of such termination, specifying the effective date thereof. Notice shall be given at least ten (10) days before the effective date of such termination.
- B. The COUNTY reserves the right to terminate this Agreement, without cause, upon thirty (30) days written notice.
- C. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the COMPANY shall be payment for those portions of satisfactorily, completely, performed work previously authorized. Such payment shall be determined on the basis of the hours of work performed by the COMPANY, or the percentage or work complete as estimated by the COMPANY and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the COMPANY, elect to employ other persons to perform the same or similar services.
- D. The terms of this Agreement may be modified upon the mutual agreement of the COMPANY and the COUNTY as confirmed in writing.
- E. In the event that the COMPANY changes names, merges with another company, becomes a subsidiary or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms described above.
- F. In the event of termination of this Agreement the COMPANY agrees to surrender any and all documents prepared by the COMPANY for the COUNTY in connection with this Agreement, of which, the COUNTY will shall have full ownership thereof, COMPANY shall retain copies of such documents for record purposes.

SECTION XXIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after its date of execution, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. In addition, subject to the COUNTY'S sole discretion, this Agreement may be extended in one (1) year increments for up to five (5) years beyond the initial one (1) year period of the agreement.

SECTION XXIV - DEFAULT

In the event the COMPANY fails to comply with the provisions of this Agreement, the COUNTY may declare the COMPANY in default by written notification. In the event partial payment has been made for professional services not completed, the COMPANY shall return any sums due to the COUNTY as a result of COMPANY'S default within ten (10) days after notice and demand that said sums are due. The COMPANY shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful to the COUNTY or by any other company retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the COMPANY'S Agreement.

SECTION XXV - INSURANCE

The COMPANY will be required to procure and maintain, at their own expense and without cost to the COUNTY, until final acceptance by the COUNTY of all products or services covered by this Agreement, the following types of insurance. The policy limits required are to be considered minimum amounts.

- A. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include the following coverages: Operations, Products and Completed Operations, Personal Injury, Contractual Liability covering this contract.
- B. Auto Liability Insurance which includes coverage for all owned, non-owned and Stormwater Marketing Campaign – Service B – MTN

rented vehicles with \$1,000,000 combined single limit for each occurrence.

- C. Workers' Compensation and Employers Liability Insurance covering all persons conducting operations on the COUNTY'S premises or on behalf of the COUNTY.
- D. Professional Liability Insurance in the amount of \$1,000,000 per claim covering the risk of errors and omissions in the professional services provided under this Agreement. Such coverage written on a "claims made" basis shall be maintained in force for five years after the final payment of services.

The COMPANY shall provide certificates of insurance to the COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Agreement. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the COUNTY as an additional insured. All policies will be endorsed to the effect that they may not be cancelled or modified without thirty (30) days prior written notice to the COUNTY.

The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the COMPANY under the terms of the contract. Sub-COMPANY's insurance shall be the responsibility of the COMPANY.

SECTION XXVI – INDEMNIFICATION

The COMPANY shall hold the COUNTY harmless against any and all claims for bodily injury, sickness, disease, death, personal injury, damage to property or loss of use of any property or assets resulting therefrom, arising out of or resulting from the performance of the products or from the services for which the COUNTY is contracting hereunder, provided such is caused in whole or in part by any negligent act or omission of the COMPANY, or any subcontractor or any of their agents or employees, or arises from a job-related injury.

The COMPANY agrees to indemnify the COUNTY and pay the cost of the COUNTY'S legal defenses, including fees of attorneys as may be selected by the COUNTY, for all claims described in the hold harmless clause herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies

available to the COUNTY and shall not be considered to be the County's exclusive remedy.

Further, the COMPANY shall fully indemnify, defend, and hold harmless the COUNTY from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to the extent such claims arise as a result of the COMPANY'S implementation of a County-originated design and/or specifications or materials provided to the COMPANY by COUNTY, COUNTY'S misuse or modification of the COMPANY'S products or COUNTY'S operation or use of the COMPANY'S products in a manner not contemplated by the Agreement or the task order.

If any work product used in services is the subject of an infringement suit, or in the COMPANY'S opinion is likely to become the subject of such a suit, the COMPANY may, at its sole expense, procure for the COUNTY the right to continue using the product or to modify it to become non-infringing. If the COMPANY is not reasonably able to modify or otherwise secure the COUNTY the right to continue using the product, the COMPANY shall remove the product and refund the COUNTY the amounts paid in excess of a reasonable fee for past use. The COUNTY shall not be liable for any royalties.

The COMPANY'S obligations under the preceding paragraphs with respect to any legal action are contingent upon the COUNTY giving the COMPANY (1) prompt written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the COMPANY'S sole expense, and (3) assistance in defending the action at the COMPANY'S sole expense. The COMPANY shall not be liable for any cost, expense, or compromise incurred or made by the COUNTY in any legal action without the COMPANY'S prior written consent, which shall not be unreasonably withheld.

It is agreed by the parties hereto that specific consideration has been received by the COMPANY under this Agreement for this hold harmless/indemnification provision.

Stormwater Marketing Campaign – Service B – MTN

SECTION XXVII - QUALITY CONTROL

The COMPANY agrees to a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or data analysis is found to be accurate and reasonable, the COMPANY shall be compensated for the additional work in accordance with Section V of this Agreement.

The COUNTY will evaluate the COMPANY'S performance upon completion of work. The evaluation will be used by the COUNTY in determining the COMPANY'S qualifications for future contracts with the COUNTY.

SECTION XXVIII- NON-EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive agreement and the COUNTY may employ other professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the COMPANY as it may approve in the sole discretion of the COUNTY.

SECTION XXIX – PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SECTION XXX- INTEREST OF COMMISSIONERS AND OTHERS

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of this PROJECT, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION XXXI - INTEREST OF COMPANY

The COMPANY covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The COMPANY further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

SECTION XXXII - ENTIRETY OF AGREEMENT

This writing, together with documents referenced herein, embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

SECTION XXXIII – SEVERABILITY

In the event a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this Agreement void or unenforceable, the remaining parts of

Stormwater Marketing Campaign – Service B – MTN

this Agreement shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this Agreement.

SECTION XXXIV – SURVIVAL

The obligations and duties set forth in Sections IX, X, XII, XIII, XVII subsections D, E and F, XVIII, XIV, XX, XXII subsections C and F, XXVI, XXXIII shall survive termination, cancellation or expiration of this Agreement.

SECTION XXXV – EFFECTIVE DATE

The effective date of this Agreement means the date on which the last of the parties hereto executes this Agreement.

SECTION XXXVI - SCRUTINIZED COMPANIES

The COMPANY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY or its subcontractors are found to have submitted a false certification; or if the COMPANY, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the COMPANY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the COMPANY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Stormwater Marketing Campaign – Service B – MTN


Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The COMPANY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this
8 day of JANUARY, 2019.

ATTEST:



Scott Ellis, Clerk

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA



Kristine Isnardi, Chair

AS APPROVED BY THE BOARD ON: Jan. 8, 2019

Reviewed for legal form and content by:




Christine Valliere, Assistant County Attorney,

ATTEST:

Company Name.

MTN ADVERTISING

 1/31/19

Walter Wood, President

STATE OF FLORIDA §
COUNTY OF BREVARD §

I HEREBY CERTIFY that before me, an officer duly authorized to take acknowledgments, personally appeared WALTER WOOD and _____ to me known to be the President and Secretary of MTN, Inc., or provided as identification and who did (did not) take an oath, acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid this 31 day of JANUARY, 2019.

(SEAL)



Steven L. Poorbaugh
Signature

STEVEN L. POORBAUGH
Notary Name (typed or printed)

Title or Rank

EXHIBIT "A"
SCOPE OF SERVICES FOR
SERVICE B
STORMWATER MARKETING CAMPAIGN SERVICES

Marketing Services may include the following:

- A. Campaign development including strategy, promotion, messaging and design.
- B. Development and implementation of campaigns for businesses and commercial entities.
- C. Evaluating the impact of online and offline marketing and outreach campaigns and brand awareness.
- D. Providing on-going recommendations to improve campaign performance, community impact and future campaigns.
- E. Pilot testing campaign materials and messages.
- F. Digital Marketing.
- G. Grassroots Marketing.
- H. Metrics and Reporting.

EXHIBIT "B"

SCHEDULE OF FEES

- A 10% gross mark-up from net rate for all third-party vendors
- Project Management Fee is \$90/hour
- Administrative Fee is \$60 (invoicing/correspondence)
- Team/hourly rates (we are cross-trained and routinely hand-off tasks)
- Project Managers: Walter Wood, Becky Clarkson, Jamie Guth \$90.00
- Concept/Copy: The above plus Chris Fynan and Jenna Bernardo \$125.00
- Design: Jamie Guth, Becky Clarkson, Chris Fynan, Nick Roberts \$125.00
- Digital Implementation: Becky Clarkson, Susan Sperling and Mary Trujillo \$125.00
- Web Design & Back End: Chris Fynan, Becky Clarkson and Chris Jones \$135.00

**BREVARD COUNTY
BOARD OF COUNTY COMMISSIONERS**

INITIAL CONTRACT REVIEW AND APPROVAL FORM

SECTION I - GENERAL INFORMATION

1. Contractor: MTN Advertising	
2. Fund/Account #: 1260/534000	3. Department Name: Nat. Res.
4. Contract Description: SOIRL Marketing Campaign Services C	
5. Contract Monitor: Carolina Alvarez	7. Contract Type: TERM CONTRACT
6. Dept/Office Director: Virginia Barker	

SECTION II - REVIEW AND APPROVAL TO ADVERTISE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	_____	_____
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____

SECTION III - REVIEW AND APPROVAL TO EXECUTE

<u>COUNTY OFFICE</u>	<u>APPROVAL</u>		<u>SIGNATURE</u>	<u>DATE</u>
	<u>YES</u>	<u>NO</u>		
User Agency	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Alvarez, Carolina <small><i>Digitally signed by Alvarez, Carolina Date: 2019.01.03 10:18:44 -0600</i></small>	01/02/2019
Risk Management	<input type="checkbox"/>	<input type="checkbox"/>	_____	_____
County Attorney	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Valliere, Christine <small><i>Digitally signed by Valliere, Christine Date: 2019.01.03 10:15:01 -0600</i></small>	01/03/2019

SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST

CM DATABASE REQUIRED FIELDS	Complete ✓
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status	<input type="checkbox"/>
Contract Title	<input type="checkbox"/>
Contract Type	<input type="checkbox"/>
Contract Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date	<input type="checkbox"/>
Contract Effective Date	<input type="checkbox"/>
Contract Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Initial Contract Form with County Attorney/ Risk Management Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

Did not
pass

Natural Resources Management Department

**SAVE OUR INDIAN RIVER LAGOON FUNDED
PUBLIC EDUCATION AND OUTREACH
MARKETING CAMPAIGNS SERVICES AGREEMENT
(SERVICE C)**

2725 Judge Fran Jamieson Way,
Bldg. A, Viera, Florida, 32940
321-633-2050

TABLE OF CONTENTS

SECTION I - GENERAL IDENTIFICATION OF SERVICES	1
SECTION II - COUNTY OBLIGATIONS	2
SECTION III - PROFESSIONAL SERVICES.....	2
SECTION IV - TIME OF COMPLETION.....	3
SECTION V - COMPENSATION	3
SECTION VI - PAYMENT AND PARTIAL PAYMENTS.....	3
SECTION VII - SCHEDULE OF WORK	4
SECTION VIII – DISPUTE RESOLUTION	4
SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES.....	5
SECTION X - REUSE OF DOCUMENTS.....	6
SECTION XI - NOTICES	6
SECTION XII - AUDIT RIGHTS.....	7
SECTION XIII – PUBLIC RECORDS	8
SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY).....	9
SECTION XV - SUBCONTRACTING	10
SECTION XVI – INDEPENDENT CONTRACTOR.....	10
SECTION XVII - TRADEMARKS AND COUNTY SEALS.....	10
SECTION XVIII – ATTORNEY’S FEES	11
SECTION XIX – VENUE	11
SECTION XX – GOVERNING LAW	11
SECTION XXI - CONTINGENT FEES.....	11
SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT	12
SECTION XXIII – DURATION OF AGREEMENT.....	13
SECTION XXIV – DEFAULT	13
SECTION XXV - INSURANCE	13
SECTION XXVI - INDEMNIFICATION	14
SECTION XXVII - QUALITY CONTROL	16

SECTION XXVIII – NON-EXCLUSIVE AGREEENT.....	16
SECTION XXIX – PUBLIC ENTITY CRIMES.....	16
SECTION XXX - INTEREST OF COMMISSIONERS AND OTHERS	17
SECTION XXXI - INTEREST OF COMPANY.....	17
SECTION XXXII - ENTIRETY OF AGREEMENT	17
SECTION XXXIII – SEVERABILITY	17
SECTION XXXIV – SURVIVAL	18
SECTION XXXV – EFFECTIVE DATE.....	18
SECTION XXXVI – SCRUTINIZED COMPANIES.....	18

SCOPE OF SERVICES.....	EXHIBIT A
SCHEDULE OF FEES.....	EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

This is an agreement entered into this ____ day of _____, 2019, by and between Brevard County a political subdivision of the State of Florida, hereinafter referred to as COUNTY and MTN ADVERTISING hereinafter referred to as COMPANY.

WHEREAS, the COUNTY Natural Resources Management Department for the Education and Outreach Services, hereafter referred to as SERVICES described in Exhibit "A" Scope of Services, attached hereto and made a part hereof by this reference.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the COMPANY, and the COMPANY hereby covenants to provide professional services as prescribed herein.

SECTION I - GENERAL IDENTIFICATION OF SERVICES

All professional services provided by the COMPANY for the COUNTY shall be identified in the Scope of Services, exhibit "A". Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation and a projected schedule for completion of the work to be performed by the COMPANY. No additional work shall be performed under this Agreement without a written Notice to Proceed signed by the Chairman of the Board of County Commissioners or other authorized representative of the COUNTY where approved by Board action. The written Notice to Proceed for additional services shall constitute an addendum to this Agreement.

Services required for the General Outreach Services will be provided in the unincorporated areas and within the jurisdictions of partnering municipalities. The Services will support stormwater pollution prevention, the NPDES permit compliance and the BMAP outreach needs.

SECTION II - COUNTY OBLIGATIONS

The COUNTY agrees that they shall furnish to the COMPANY, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

SECTION III - PROFESSIONAL SERVICES

Upon receipt of Notice to Proceed, COMPANY agrees to perform professional services associated with an individual work order in accordance with the negotiated terms of this Agreement, and in accordance with accepted professional standards and practices. The COMPANY warrants the adequacy of work provided under this Agreement and Work Orders, and agrees to correct any errors and omissions that may be required because work was found defective. This remedy shall be cumulative to all other remedies available under law.

In connection with the services to be rendered pursuant to this Agreement, the COMPANY further agrees to:

- A. Maintain an adequate staff of qualified personnel.
- B. Comply with federal, state and local laws, ordinances, or contract applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all the work.
- D. Cooperate and coordinate with other COUNTY CONSULTANT's, as directed by the COUNTY.
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, photos, art work, reports, notes, records, sketches, printed material, lesson plans, and other pertinent documents open to the inspection of the COUNTY or its authorized agent at any time.
- F. Submit for COUNTY review, sketches, work plans, survey, proposals and other work representative of the Services progress, which may be stipulated in an individual Work Order .
- G. Submit for COUNTY approval the final work product upon incorporation of any

modifications requested by the COUNTY during any previous review.

- H. Obtain and maintain any and all licenses, permits, franchises, governmental authorizations, including permission to use patents, **trademarks**, copyrights or other rights necessary to perform the Services as may be required from time to time by applicable law.

SECTION IV - TIME OF COMPLETION

The services to be rendered by the COMPANY shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement and shall be completed within the time stated in the Work Order.

SECTION V - COMPENSATION

The COUNTY agrees to pay and the COMPANY agrees to accept, for the services described in Exhibit "A" pursuant to this Agreement, and stated in a Work Order, fees and other compensation as described in Exhibit "B", and as described in the individual Work Orders..

Additional Services under this Agreement shall, if required and requested, be compensated in accordance with the attached Exhibit "B", Schedule of Fees.

SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the COMPANY for all authorized work performed during the previous calendar month, and in accordance with Exhibit "B" and individual Work Orders

- A. Invoices shall include a breakdown for each part of the work billed and personnel as identified in Exhibit "B".
- B. The COMPANY shall provide a schedule of work with anticipated costs for each milestone in the schedule.

C. The COUNTY shall adhere to the Florida Prompt Payment Act, Sections 218.80 through 218.80, Florida Statutes and the COUNTY Administrative Order AO-33 for prompt payment of invoices.

SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine the units or sections of the work on which the COMPANY shall proceed and in what order. Should a work revision effect a change in scope, cost or schedule, the COMPANY shall submit such revisions for review and, if warranted, approval by the COUNTY in writing. All the work under this Agreement is to be completed on an annual basis.

SECTION VIII – DISPUTE RESOLUTION

All services shall be performed by the COMPANY to reasonable professional standards and practices, and to the reasonable requirements of the COUNTY. The COUNTY Central Services Director or designee shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be written and shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the COMPANY does not concur with the decisions of the COUNTY, within ten (10) days after determination by the Central Services Director or designee, the COMPANY shall present any such objections in writing to the COUNTY Central Services Director and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Natural Resources Management Department, County Manager's Office and the Central Services Office for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the COMPANY goes through the appeal process established in this Agreement and provided further that the COMPANY strictly abides by the ten-day time deadline set forth in this paragraph.

SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES

Intellectual property includes, but is not limited to, documents, photographs, art work, reports, educating plans, ideas, marketing material (video, music, print ads, slogans, TV, Media, online, art work, radio), website development, press releases, maps, contract documents, logos, slogans, taglines, branding, advertising and educational materials, curricula, powerpoint slides, supplementary works, compilations, derivative works and all other work product developed by the COMPANY pursuant to this Agreement, whether used or not used.

It is likely that each Work Order issued under this Agreement will include work that is specially ordered or commissioned as a "work made for hire" under 17 U.S.C. § 101. In such case, where the Work Order states the work product is specially ordered as a "work made for hire," the COMPANY agrees that the COUNTY is the exclusive owner of all work product ordered or commissioned under that Work Order which qualifies as a "work made for hire," as that term is defined in 17 U.S.C. § 101, without restrictions or limitations upon its use.

For all other work that is not specially ordered or commissioned as a "work made for hire" on the Work Order, the COMPANY grants to the COUNTY or agrees to obtain for the COUNTY a royalty free, world-wide, nonexclusive, irrevocable, unlimited license right in intellectual property produced, used, or modified pursuant to this Agreement, without restrictions or limitations upon its use. Such licenses will include an express right for the COUNTY to further sub-license the intellectual property without restriction. Such licenses will be promptly provided in writing to the COUNTY with delivery of the work.

All copyrightable materials produced pursuant to this Agreement shall be marked and dated by the COMPANY in such a manner as to preserve and protect the legal rights of the COUNTY.

The COMPANY agrees to obtain, or cause to be obtained, any other releases, permits or authorization necessary for the use of photographs, copyrighted materials, art work or any other property or rights belonging to a third party for use in performing services for the COUNTY.

When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use. There shall be no additional compensation for the rights and property granted under this paragraph.

The COMPANY further agrees that upon request or upon expiration, cancellation or termination of this Agreement, the COMPANY will provide COUNTY the underlying digital files in a format accessible to the COUNTY, along with information regarding what software programs were used to create the intellectual property. The digital files must be in a format to allow modifications to the intellectual property, it may not solely be a .pdf copy of the intellectual property. The COMPANY agrees that it (and any subcontractors that it hires) will use only commercially available software to create intellectual property for the COUNTY. COMPANY will not use proprietary non-commercial technology to create intellectual property for COUNTY use.

The COMPANY warrants that the proper authorizations have been granted or will be obtained for use of the intellectual property developed under this Agreement. The COMPANY agrees to be responsible for any claims arising with respect to the COUNTY's use of intellectual property produced under this Agreement.

The COMPANY agrees that its proposal for this work factored the costs of this section into its proposal and that no additional compensation is owed by the COUNTY.

SECTION X - REUSE OF DOCUMENTS

The COMPANY may not reuse data or work products exclusively developed for this Agreement without express written permission of the COUNTY.

SECTION XI - NOTICES

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

COUNTY:

Carolina Alvarez
Engineer II
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bld. A.
Viera, FL 32940

COMPANY:

MTN Advertising
Walter Wood
President
1355 S. Patrick Dr.
Satellite Beach, FL 32937

SECTION XII - AUDIT RIGHTS

In performance of this Agreement, the COMPANY shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the COMPANY in conjunction with this Agreement, and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COMPANY shall retain all documents, books and records for a period of five (5) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the COMPANY by the COUNTY in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible with the information technology systems of the COUNTY.

The COMPANY shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the COMPANY does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, the COMPANY may transfer, at no cost to the COUNTY, all public records in possession of the COMPANY.

SOIRL Funded Marketing Campaign -Service C – MTN

If the COMPANY transfers all public records to the COUNTY upon termination of the Agreement, the COMPANY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

SECTION XIII – PUBLIC RECORDS

Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the COMPANY of the request and the COMPANY must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of Sections 119.07. The COMPANY may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the COUNTY'S public records custodian designated below.

If the COMPANY fails to provide the requested public records to the COUNTY within a reasonable time, the COMPANY may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The COMPANY'S failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the COUNTY face any legal action to enforce inspection or production of the records within the COMPANY'S possession and control, The COMPANY agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The COMPANY shall hire and compensate attorney(s) to represent the COMPANY and COUNTY in defending such action. The COMPANY shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION
SOIRL Funded Marketing Campaign -Service C – MTN

OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: MARY BLAKELY AT 321-633-2014 MARY.BLAKEY@BREVARDFL.GOV or at the mailing address below:

Natural Resources Management Department
2725 Judge Fran Jamieson Way, Suite A-217
Melbourne, FL 32940

SECTION XIV – EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

The COMPANY:

A. 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 COMPANY during the term of the contract; and

B. shall expressly require any subcontractors performing work or providing services pursuant to this Agreement to likewise 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; and

C. agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of the COMPANY'S enrollment in the program. This includes maintaining a copy of proof of the COMPANY'S and subcontractors' enrollment in the E-Verify Program.

D. Compliance with the terms of this section is made an express condition of this SOIRL Funded Marketing Campaign -Service C – MTN

Agreement and the COUNTY may treat a failure to comply as a material breach of this Agreement.

SECTION XV - SUBCONTRACTING

The COMPANY shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the COMPANY shall cause the names of any subcontracted COMPANYS responsible for major portions (or separate specialty) of the work to be inserted in pertinent documents or data.

SECTION XVI - INDEPENDENT CONTRACTOR

The COUNTY contracts for the services of the COMPANY as an independent contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties. Neither party shall have the authority to enter into any agreements of any kind on behalf of the other, or to bind or obligate the other to any third party.

SECTION XVII - TRADEMARKS AND COUNTY SEAL

Use of official county and municipal seals without the express approval of the governing body is controlled by Section 165.043, Florida Statute. The COMPANY may only use the official County Seal after obtaining written approval from the County Manager, or designee. Likewise, the COMPANY may only use other trademarked or licensed logos of Brevard County with written approval of the County Manager, or designee. Permission is not guaranteed. The County Manager, or designee, may approve or deny such approval, in the County Manager's sole discretion. It is the COMPANY's responsibility to check the intellectual property status of presumed County logos before use, and to inquire and obtain the proper permissions as discussed under Section IX, at no additional cost to the County. Failure or refusal by the COMPANY to comply with the terms and conditions of this Section shall entitle the COUNTY to SOIRL Funded Marketing Campaign -Service C – MTN

terminate this Agreement.

SECTION XVIII - ATTORNEY'S FEES

In the event of any legal action to interpret or enforce the terms of this Agreement or any provision hereof, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

SECTION XIX – VENUE

Venue for any legal action brought by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for **Brevard County, Florida.**

SECTION XX - GOVERNING LAW

This Agreement shall be deemed to have been executed and entered into the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

SECTION XXI - CONTINGENT FEES

The COMPANY warrants that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, accepting bona fide employee, any fee commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT

SOIRL Funded Marketing Campaign -Service C – MTN

- A. If through any cause, the COMPANY shall fail to fulfill its obligations under this Agreement, or if the COMPANY violates any of the covenants, agreements, or stipulations of this Agreement, the COUNTY shall have the right to terminate this Agreement by giving written notice to the COMPANY of such termination, specifying the effective date thereof. Notice shall be given at least ten (10) days before the effective date of such termination.
- B. The COUNTY reserves the right to terminate this Agreement, without cause, upon thirty (30) days written notice.
- C. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the COMPANY shall be payment for those portions of satisfactorily, completely, performed work previously authorized. Such payment shall be determined on the basis of the hours of work performed by the COMPANY, or the percentage or work complete as estimated by the COMPANY and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the COMPANY, elect to employ other persons to perform the same or similar services.
- D. The terms of this Agreement may be modified upon the mutual agreement of the COMPANY and the COUNTY as confirmed in writing.
- E. In the event that the COMPANY changes names, merges with another company, becomes a subsidiary or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms described above.
- F. In the event of termination of this Agreement the COMPANY agrees to surrender any and all documents prepared by the COMPANY for the COUNTY in connection with this Agreement, of which, the COUNTY will shall have full ownership thereof, COMPANY shall retain copies of such documents for record purposes.

SECTION XXIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after
SOIRL Funded Marketing Campaign -Service C – MTN

its date of execution, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. In addition, subject to the COUNTY'S sole discretion, this Agreement may be extended in one (1) year increments for up to five (5) years beyond the initial one (1) year period of the agreement.

SECTION XXIV - DEFAULT

In the event the COMPANY fails to comply with the provisions of this Agreement, the COUNTY may declare the COMPANY in default by written notification. In the event partial payment has been made for professional services not completed, the COMPANY shall return any sums due to the COUNTY as a result of COMPANY'S default within ten (10) days after notice and demand that said sums are due. The COMPANY shall not be compensated on a percentage of any deficient professional services which have been performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful to the COUNTY or by any other company retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the COMPANY'S Agreement.

SECTION XXV - INSURANCE

The COMPANY will be required to procure and maintain, at their own expense and without cost to the COUNTY, until final acceptance by the COUNTY of all products or services covered by this Agreement, the following types of insurance. The policy limits required are to be considered minimum amounts.

- A. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include the following coverages: Operations, Products and Completed Operations, Personal Injury, Contractual Liability covering this contract.
- B. Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with \$1,000,000 combined single limit for each occurrence.
- C. Workers' Compensation and Employers Liability Insurance covering all persons

conducting operations on the COUNTY'S premises or on behalf of the COUNTY.

- D. Professional Liability Insurance in the amount of \$1,000,000 per claim covering the risk of errors and omissions in the professional services provided under this Agreement. Such coverage written on a "claims made" basis shall be maintained in force for five years after the final payment of services.

The COMPANY shall provide certificates of insurance to the COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Agreement. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the COUNTY as an additional insured. All policies will be endorsed to the effect that they may not be cancelled or modified without thirty (30) days prior written notice to the COUNTY.

The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the COMPANY under the terms of the contract. Sub-COMPANY's insurance shall be the responsibility of the COMPANY.

SECTION XXVI – INDEMNIFICATION

The COMPANY shall hold the COUNTY harmless against any and all claims for bodily injury, sickness, disease, death, personal injury, damage to property or loss of use of any property or assets resulting therefrom, arising out of or resulting from the performance of the products or from the services for which the COUNTY is contracting hereunder, provided such is caused in whole or in part by any negligent act or omission of the COMPANY, or any subcontractor or any of their agents or employees, or arises from a job-related injury.

The COMPANY agrees to indemnify the COUNTY and pay the cost of the COUNTY'S legal defenses, including fees of attorneys as may be selected by the COUNTY, for all claims described in the hold harmless clause herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the County's exclusive remedy.

Further, the COMPANY shall fully indemnify, defend, and hold harmless the COUNTY from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to the extent such claims arise as a result of the COMPANY'S implementation of a County-originated design and/or specifications or materials provided to the COMPANY by COUNTY, COUNTY'S misuse or modification of the COMPANY'S products or COUNTY'S operation or use of the COMPANY'S products in a manner not contemplated by the Agreement or the task order.

If any work product used in services is the subject of an infringement suit, or in the COMPANY'S opinion is likely to become the subject of such a suit, the COMPANY may, at its sole expense, procure for the COUNTY the right to continue using the product or to modify it to become non-infringing. If the COMPANY is not reasonably able to modify or otherwise secure the COUNTY the right to continue using the product, the COMPANY shall remove the product and refund the COUNTY the amounts paid in excess of a reasonable fee for past use. The COUNTY shall not be liable for any royalties.

The COMPANY'S obligations under the preceding paragraphs with respect to any legal action are contingent upon the COUNTY giving the COMPANY (1) prompt written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the COMPANY'S sole expense, and (3) assistance in defending the action at the COMPANY'S sole expense. The COMPANY shall not be liable for any cost, expense, or compromise incurred or made by the COUNTY in any legal action without the COMPANY'S prior written consent, which shall not be unreasonably withheld.

It is agreed by the parties hereto that specific consideration has been received by the COMPANY under this Agreement for this hold harmless/indemnification provision.

SECTION XXVII - QUALITY CONTROL

The COMPANY agrees to a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or data analysis is found to be accurate and reasonable, the COMPANY shall be compensated for the additional work in accordance with Section V of this Agreement.

The COUNTY will evaluate the COMPANY'S performance upon completion of work. The evaluation will be used by the COUNTY in determining the COMPANY'S qualifications for future contracts with the COUNTY.

SECTION XXVIII- NON-EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive agreement and the COUNTY may employ other professional or technical personnel to furnish services for the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the COMPANY as it may approve in the sole discretion of the COUNTY.

SECTION XXIX – PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SECTION XXX- INTEREST OF COMMISSIONERS AND OTHERS

No officers, members or employees of the COUNTY, and no members of its SOIRL Funded Marketing Campaign -Service C – MTN

governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of this PROJECT, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION XXXI - INTEREST OF COMPANY

The COMPANY covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The COMPANY further covenants that in the performance of this Agreement, no person having any such interest shall be employed.

SECTION XXXII - ENTIRETY OF AGREEMENT

This writing, together with documents referenced herein, embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

SECTION XXXIII – SEVERABILITY

In the event a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this Agreement void or unenforceable, the remaining parts of this Agreement shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this Agreement.

SECTION XXXIV – SURVIVAL

The obligations and duties set forth in Sections IX, X, XII, XIII, XVII subsections D, E and F, XVIII, XIV, XX, XXII subsections C and F, XXVI, XXXIII shall survive termination, cancellation or expiration of this Agreement.

SECTION XXXV – EFFECTIVE DATE

The effective date of this Agreement means the date on which the last of the parties hereto executes this Agreement.

SECTION XXXVI - SCRUTINIZED COMPANIES

The COMPANY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY or its subcontractors are found to have submitted a false certification; or if the COMPANY, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the COMPANY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the COMPANY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or SOIRL Funded Marketing Campaign -Service C – MTN

Syria during the term of the Agreement.

The COMPANY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this
_____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Kristine Isnardi, Chair

AS APPROVED BY THE BOARD ON: _____

Reviewed for legal form and content by:

Christine Valliere, Assistant County Attorney,

ATTEST:

Company Name.

MTN ADVERTISING

Walter Wood, President

STATE OF FLORIDA §
COUNTY OF BREVARD §

I HEREBY CERTIFY that before me, an officer duly authorized to take acknowledgments, personally appeared _____ and _____ to me known to be the President and Secretary of _____, Inc., or provided as identification and who did (did not) take an oath, acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid this _____ day of _____, 2019.

(SEAL)

Signature

Notary Name (typed or printed)

Title or Rank

EXHIBIT "A"
SCOPE OF SERVICES FOR
SERVICE C
SAVE OUR INDIAN RIVER LAGOON FUNDED
PUBLIC EDUCATION AND OUTREACH MARKETING CAMPAIGNS

The COMPANY shall be responsible at a minimum for the following:

- A. Development, designing and implementing a campaign of digital and print media that simplify a variety of topics and make them more understandable to the general public, businesses and commercial entities
- B. Preparing press releases and social marketing content to broaden visibility and creating awareness for each campaign.
- C. Development and implementing a campaign of activities for businesses and commercial entities.
- D. Evaluating the impact of online and offline marketing and outreach campaigns and brand awareness.
- E. Providing on-going recommendations to improve campaign performance, community impact and future campaigns.
- F. Maximizing all opportunities through partnerships and build continuing relationships with the media.
- G. Digital Marketing.
- H. Grassroots Marketing.
- I. Organize training and outreach for retail store staff.
- J. Providing tracking and reporting to track and target measurable behavioral changes.

Preparing a monthly report summarizing all activities performed to be submitted to the County.

SOIRL Funded Marketing Campaign -Service C – MTN

EXHIBIT "B"

SCHEDULE OF FEES

- A 10% gross mark-up from net rate for all third-party vendors
- Project Management Fee is \$90/hour
- Administrative Fee is \$60 (invoicing/correspondence)
- Team/hourly rates (we are cross-trained and routinely hand-off tasks)
- Project Managers: Walter Wood, Becky Clarkson, Jamie Guth \$90.00
- Concept/Copy: The above plus Chris Fynan and Jenna Bernardo \$125.00
- Design: Jamie Guth, Becky Clarkson, Chris Fynan, Nick Roberts \$125.00
- Digital Implementation: Becky Clarkson, Susan Sperling and Mary Trujillo \$125.00
- Web Design & Back End: Chris Fynan, Becky Clarkson and Chris Jones \$135.00

Deborah Thomas

From: Alvarez, Carolina <Carolina.Alvarez@brevardfl.gov>
Sent: Friday, January 4, 2019 11:50 AM
To: Gerundo, Carol; Deborah Thomas
Cc: Barker, Virginia H
Subject: RE: ITEM I.1.

Follow Up Flag: Follow up
Flag Status: Flagged

Good morning,

The CAO has already reviewed and approved the 5 contracts. I am working on adding footers per their request and then printing the originals for her signature. If I can have someone bring this to her today, they may be ready for Tuesday and I will bring them to the meeting for signature by the Chair.

Thanks,

Carolina Alvarez,
(321)633-2014 ext 56472
carolina.alvarez@brevardfl.gov

From: Gerundo, Carol
Sent: Friday, January 04, 2019 11:30 AM
To: Deborah Thomas
Cc: Barker, Virginia H; Alvarez, Carolina
Subject: RE: ITEM I.1.

Hi Deborah,

I spoke with Virginia with regard to your question on Item I.1. Virginia confirmed that there are no attachments that need to be signed (please see copy of email from the County Attorney's office to Carolina Alvarez below).

From: Valliere, Christine V
Sent: Wednesday, January 02, 2019 3:50 PM
To: Alvarez, Carolina
Cc: Barker, Virginia H; Jones, Julie L; Lane, Karen
Subject: RE: January 8, 2019 Agenda Item I.1. Award contracts for NRMD education/ outreach/marketing

Carolina,

I understand that there was e-verify language was in the May 2018 draft. That is now outdated language and the BOCC-directed language needs to be included in its place.

Natural Resources Management Department

**SAVE OUR INDIAN RIVER LAGOON FUNDED
PUBLIC OUTREACH
AND
MARKETING SERVICES AGREEMENT**

2725 Judge Fran Jamieson Way,
Bldg. A, Viera, Florida, 32940
321-633-2050

TABLE OF CONTENTS

SECTION I - GENERAL IDENTIFICATION OF SERVICES.....	1
SECTION II - COUNTY OBLIGATIONS.....	2
SECTION III - PROFESSIONAL SERVICES	2
SECTION IV - TIME OF COMPLETION.....	3
SECTION V - COMPENSATION.....	3
SECTION VI - PAYMENT AND PARTIAL PAYMENTS	3
SECTION VII - SCHEDULE OF WORK	4
SECTION VIII – DISPUTE RESOLUTION	4
SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES.....	5
SECTION X - REUSE OF DOCUMENTS	5
SECTION XI - NOTICES.....	5
SECTION XII - AUDIT RIGHTS	6
SECTION XIII – PUBLIC RECORDS	7
SECTION XIV – E-VERIFY	8
SECTION XV - SUBCONTRACTING.....	8
SECTION XVI – INDEPENDENT CONTRACTOR.....	8
SECTION XVII - TRADEMARKS AND COUNTY SEALS	9
SECTION XVIII – ATTORNEY’S FEES.....	10
SECTION XIX – VENUE	10
SECTION XX – GOVERNING LAW.....	10
SECTION XXI - CONTINGENT FEES	10
SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT	11
SECTION XXIII – DURATION OF AGREEMENT	12
SECTION XXIV – DEFAULT.....	12
SECTION XXV - INSURANCE	12
SECTION XXVI - INDEMNIFICATION	13
SECTION XXVII - QUALITY CONTROL	15

SECTION XXVIII – NON-EXCLUSIVE AGREEENT	15
SECTION XXIX – PUBLIC ENTITY CRIMES.....	15
SECTION XXX - INTEREST OF COMMISSIONERS AND OTHERS	16
SECTION XXXI - INTEREST OF COMPANY	16
SECTION XXXII - ENTIRETY OF AGREEMENT.....	16
SECTION XXXIII – SEVERABILITY	17
SECTION XXXIV – SURVIVAL	17
SECTION XXXV – EFFECTIVE DATE.....	17
SCOPE OF SERVICES.....	EXHIBIT A
SCHEDULE OF FEES	EXHIBIT B

PROFESSIONAL SERVICES AGREEMENT

This is an agreement entered into this ____ day of _____, 2019, by and between Brevard County a political subdivision of the State of Florida, hereinafter referred to as COUNTY and MARINE RESOURCES COUNCIL hereinafter referred to as COMPANY.

WHEREAS, the COUNTY Natural Resources Management Department for the Education and Outreach Services, hereafter referred to as SERVICES described in Exhibit "A" Scope of Services, attached hereto and made a part hereof by this reference.

For and in consideration of the mutual agreement hereinafter contained, the COUNTY hereby retains the COMPANY, and the COMPANY hereby covenants to provide professional services as prescribed herein.

SECTION I - GENERAL IDENTIFICATION OF SERVICES

All professional services provided by the COMPANY for the COUNTY shall be identified in the Scope of Services, exhibit "A". Work Orders shall entail a description of services to be performed, a statement of fees, proposed schedule for compensation and a projected schedule for completion of the work to be performed by the COMPANY. No additional work shall be performed under this Agreement without a written Notice to Proceed signed by the Chairman of the Board of County Commissioners or other authorized representative of the COUNTY where approved by Board action. The written Notice to Proceed for additional services shall constitute an addendum to this Agreement.

Services required for the General Outreach Services will be provided in the unincorporated areas and within the jurisdictions of partnering municipalities. The Services will support stormwater pollution prevention, the NPDES permit compliance and the BMAP outreach needs.

SECTION II - COUNTY OBLIGATIONS

The COUNTY agrees that they shall furnish to the COMPANY, upon request, any data available in the COUNTY'S files pertaining to the work to be performed under this Agreement.

SECTION III - PROFESSIONAL SERVICES

Upon receipt of Notice to Proceed, COMPANY agrees to perform professional services associated with an individual work order in accordance with the negotiated terms of this Agreement, and in accordance with accepted professional standards and practices. The COMPANY warrants the adequacy of work provided under this Agreement and Work Orders, and agrees to correct any errors and omissions that may be required because work was found defective. This remedy shall be cumulative to all other remedies available under law.

In connection with the services to be rendered pursuant to this Agreement, the COMPANY further agrees to:

- A. Maintain an adequate staff of qualified personnel.
- B. Comply with federal, state and local laws, ordinances, or contract applicable to the work.
- C. Cooperate fully with the COUNTY in the scheduling and coordination of all the work.
- D. Cooperate and coordinate with other COUNTY CONSULTANT's, as directed by the COUNTY.
- E. Report the status of the work to the COUNTY upon request and hold pertinent data, photos, art work, reports, notes, records, sketches, printed material, lesson plans, and other pertinent documents open to the inspection of the COUNTY or its authorized agent at any time.
- F. Submit for COUNTY review, sketches, work plans, survey, proposals and other work representative of the Services progress, which may be stipulated in an individual Work Order .
- G. Submit for COUNTY approval the final work product upon incorporation of any

modifications requested by the COUNTY during any previous review.

- H. Obtain and maintain any and all licenses, permits, franchises, governmental authorizations, including permission to use patents, **trademarks**, copyrights or other rights necessary to perform the Services as may be required from time to time by applicable law.

SECTION IV - TIME OF COMPLETION

The services to be rendered by the COMPANY shall commence upon receipt of a written Notice to Proceed from the COUNTY subsequent to the execution of the Agreement and shall be completed within the time stated in the Work Order.

SECTION V - COMPENSATION

The COUNTY agrees to pay and the COMPANY agrees to accept, for the services described in Exhibit "A" pursuant to this Agreement, and stated in a Work Order, fees and other compensation as described in Exhibit "B", and as described in the individual Work Orders..

Additional Services under this Agreement shall, if required and requested, be compensated in accordance with the attached Exhibit "B", Schedule of Fees.

SECTION VI - PAYMENT AND PARTIAL PAYMENTS

Subject to the COUNTY'S right to withhold any amounts reasonably necessary to complete or correct defective or substandard work, the COUNTY shall make monthly payments or partial payments to the COMPANY for all authorized work performed during the previous calendar month, and in accordance with Exhibit "B" and individual Work Orders

- A. Invoices shall include a breakdown for each part of the work billed and personnel as identified in Exhibit "B".
- B. The COMPANY shall provide a schedule of work with anticipated costs for each milestone in the schedule.

C. The COUNTY shall adhere to the Florida Prompt Payment Act, Sections 218.80 through 218.80, Florida Statutes and the COUNTY Administrative Order AO-33 for prompt payment of invoices.

SECTION VII - SCHEDULE OF WORK

The COUNTY shall have the sole right to determine the units or sections of the work on which the COMPANY shall proceed and in what order. Should a work revision effect a change in scope, cost or schedule, the COMPANY shall submit such revisions for review and, if warranted, approval by the COUNTY in writing. All the work under this Agreement is to be completed on an annual basis.

SECTION VIII – DISPUTE RESOLUTION

All services shall be performed by the COMPANY to reasonable professional standards and practices, and to the reasonable requirements of the COUNTY. The COUNTY Central Services Director or designee shall decide and dispose of all claims, questions and disputes arising under this Agreement. Such determination shall be written and shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the COMPANY does not concur with the decisions of the COUNTY, within ten (10) days after determination by the Central Services Director or designee, the COMPANY shall present any such objections in writing to the COUNTY Central Services Director and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Natural Resources Management Department, County Manager's Office and the Central Services Office for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the COMPANY goes through the appeal process established in this Agreement and provided further that the COMPANY strictly abides by the ten-day time deadline set forth in this paragraph.

SECTION IX - OWNERSHIP OF WORK PRODUCT AND RELEASES

Intellectual property includes, but is not limited to, documents, photographs, art work, reports, educating plans, ideas, marketing material (video, music, print ads, slogans, TV, Media, online, art work, radio), website development, press releases, maps, contract documents, logos, slogans, taglines, branding, advertising and educational materials, curricula, powerpoint slides, supplementary works, compilations, derivative works and all other work product developed by the COMPANY pursuant to this Agreement, whether used or not used.

It is likely that each Work Order issued under this Agreement will include work that is specially ordered or commissioned as a "work made for hire" under 17 U.S.C. § 101. In such case, where the Work Order states the work product is specially ordered as a "work made for hire," the COMPANY agrees that the COUNTY is the exclusive owner of all work product ordered or commissioned under that Work Order which qualifies as a "work made for hire," as that term is defined in 17 U.S.C. § 101, without restrictions or limitations upon its use.

For all other work that is not specially ordered or commissioned as a "work made for hire" on the Work Order, the COMPANY grants to the COUNTY or agrees to obtain for the COUNTY a royalty free, world-wide, nonexclusive, irrevocable, unlimited license right in intellectual property produced, used, or modified pursuant to this Agreement, without restrictions or limitations upon its use. Such licenses will include an express right for the COUNTY to further sub-license the intellectual property without restriction. Such licenses will be promptly provided in writing to the COUNTY with delivery of the work.

All copyrightable materials produced pursuant to this Agreement shall be marked and dated by the COMPANY in such a manner as to preserve and protect the legal rights of the COUNTY.

The COMPANY agrees to obtain, or cause to be obtained, any other releases, permits or authorization necessary for the use of photographs, copyrighted materials, art work or any other property or rights belonging to a third party for use in performing services for the COUNTY.

When each individual section of work requested pursuant to this Agreement is complete, all of the above work products shall be delivered to the COUNTY for its use. There shall be no additional compensation for the rights and property granted under this paragraph.

The COMPANY further agrees that upon request or upon expiration, cancellation or termination of this Agreement, the COMPANY will provide COUNTY the underlying digital files in a format accessible to the COUNTY, along with information regarding what software programs were used to create the intellectual property. The digital files must be in a format to allow modifications to the intellectual property, it may not solely be a .pdf copy of the intellectual property. The COMPANY agrees that it (and any subcontractors that it hires) will use only commercially available software to create intellectual property for the COUNTY. COMPANY will not use proprietary non-commercial technology to create intellectual property for COUNTY use.

The COMPANY warrants that the proper authorizations have been granted or will be obtained for use of the intellectual property developed under this Agreement. The COMPANY agrees to be responsible for any claims arising with respect to the COUNTY's use of intellectual property produced under this Agreement.

The COMPANY agrees that its proposal for this work factored the costs of this section into its proposal and that no additional compensation is owed by the COUNTY.

SECTION X - REUSE OF DOCUMENTS

The COMPANY may not reuse data or work products exclusively developed for this Agreement without express written permission of the COUNTY.

SECTION XI - NOTICES

All notices and written communication between the parties shall be sent by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient.

COUNTY:

Carolina Alvarez
Engineer II
Natural Resources Management Department
2725 Judge Fran Jamieson Way, Bld. A.
Viera, FL 32940

COMPANY:

Name of Responsible Party
Title
Name of Company
Address
City/State/Zip Code

SECTION XII - AUDIT RIGHTS

In performance of this Agreement, the COMPANY shall keep books, records, and accounts of all activities related to this Agreement in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the COMPANY in conjunction with this Agreement, and the performance of this Agreement shall be open to inspection during regular business hours by an authorized representative of the COUNTY. The COMPANY shall retain all documents, books and records for a period of five (5) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and Ch. 119, Florida Statutes. All records or documents created by or provided to the COMPANY by the COUNTY in connection with this Agreement are public records subject to Florida Public Records Law, Chapter 119, Florida Statutes. All records stored electronically must be provided to the COUNTY in a format compatible with the information technology systems of the COUNTY.

The COMPANY shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Agreement and following termination of the Agreement if the COMPANY does not transfer the records to the public agency. In lieu of retaining all public records upon termination of this Agreement, the COMPANY may transfer, at no cost to the COUNTY, all public records in possession of the COMPANY.

If the COMPANY transfers all public records to the COUNTY upon termination of the Agreement, the COMPANY shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements.

SECTION XIII – PUBLIC RECORDS

Pursuant to Section 119.0701, a request to inspect or copy public records relating to this Agreement must be made directly to the COUNTY. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the COMPANY of the request and the COMPANY must provide the records to the COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of Sections 119.07. The COMPANY may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated herein by this reference. A copy of AO-47 is available upon request from the COUNTY'S public records custodian designated below.

If the COMPANY fails to provide the requested public records to the COUNTY within a reasonable time, the COMPANY may face civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. Sections 119.0701, 119.110. The COMPANY'S failure to comply with public records requests is considered a material breach of this Agreement and grounds for termination.

Should the COUNTY face any legal action to enforce inspection or production of the records within the COMPANY'S possession and control, The COMPANY agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The COMPANY shall hire and compensate attorney(s) to represent the COMPANY and COUNTY in defending such action. The COMPANY shall pay all costs to defend such action and any costs and attorneys fees awarded pursuant to Section 119.12.

IF THE COMPANY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COMPANY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS: MARY BLAKELY AT 321-633-2014 MARY.BLAKEY@BREVARDFL.GOV or at the mailing address below:

Natural Resources Management Department
2725 Judge Fran Jamieson Way, Suite A-217
Melbourne, FL 32940

SECTION XIV – E-VERIFY

The COMPANY shall utilize the U.S. Department of Homeland Security's E-Verify, per State of Florida Office of the Governor Executive Order 11-116, system to verify the employment eligibility of all new employees hired by the COMPANY during the term of the Agreement and shall expressly require any subcontractors performing work or providing services pursuant to the Agreement to likewise 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 Agreement term.

SECTION XV - SUBCONTRACTING

The COMPANY shall not subcontract, assign, or transfer any work under this Agreement without the written approval of the COUNTY. When applicable, the COMPANY shall cause the names of any subcontracted COMPANYS responsible for major portions (or separate specialty) of the work to be inserted in pertinent documents or data.

SECTION XVI - INDEPENDENT CONTRACTOR

The COUNTY contracts for the services of the COMPANY as an independent

contractor and not as an employee. Nothing herein shall be construed to create a partnership, joint venture or agency relationship between the parties. Neither party shall have the authority to enter into any agreements of any kind on behalf of the other, or to bind or obligate the other to any third party.

SECTION XVII - TRADEMARKS AND COUNTY SEAL

Use of official county and municipal seals without the express approval of the governing body is controlled by Section 165.043, Florida Statute. The COMPANY may only use the official County Seal after obtaining written approval from the County Manager, or designee. Likewise, the COMPANY may only use other trademarked or licensed logos of Brevard County with written approval of the County Manager, or designee. Permission is not guaranteed. The County Manager, or designee, may approve or deny such approval, in the County Manager's sole discretion. It is the COMPANY's responsibility to check the intellectual property status of presumed County logos before use, and to inquire and obtain the proper permissions as discussed under Section IX, at no additional cost to the County. Failure or refusal by the COMPANY to comply with the terms and conditions of this Section shall entitle the COUNTY to terminate this Agreement.

SECTION XVIII - ATTORNEY'S FEES

In the event of any legal action to interpret or enforce the terms of this Agreement or any provision hereof, each party shall bear its own attorney's fees and costs and any trial shall be non-jury.

SECTION XIX – VENUE

Venue for any legal action brought by any party to this Agreement to interpret, construe, or enforce this Agreement shall be in a court of competent jurisdiction in and for **Brevard County, Florida**.

SECTION XX - GOVERNING LAW

This Agreement shall be deemed to have been executed and entered into the State of Florida and this Agreement, and any dispute arising hereunder, shall be governed, interpreted and construed according to the laws of the State of Florida.

SECTION XXI - CONTINGENT FEES

The COMPANY warrants that no person or company was employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, accepting bona fide employee, any fee commission, contribution, donation, percentage, gift, or any other consideration, contingent upon, or resulting from award of this Agreement. For any breach or violation of this provision, the COUNTY shall have the right to terminate this Agreement, without liability, and, at its discretion, to deduct from the Agreement price or otherwise recover, the full amount of such fee, commission, percentage, gift or consideration and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

SECTION XXII - TERMINATION/MODIFICATION OF AGREEMENT

- A. If through any cause, the COMPANY shall fail to fulfill its obligations under this Agreement, or if the COMPANY violates any of the covenants, agreements, or stipulations of this Agreement, the COUNTY shall have the right to terminate this Agreement by giving written notice to the COMPANY of such termination, specifying the effective date thereof. Notice shall be given at least ten (10) days before the effective date of such termination.
- B. The COUNTY reserves the right to terminate this Agreement, without cause, upon thirty (30) days written notice.
- C. In the event of termination by the COUNTY, the COUNTY'S sole obligation to the COMPANY shall be payment for those portions of satisfactorily, completely, performed work previously authorized. Such payment shall be determined on the basis of the hours of work performed by the COMPANY, or the percentage

or work complete as estimated by the COMPANY and agreed upon by the COUNTY up to the time of termination. In the event of such termination, the COUNTY may, without penalty or other obligation to the COMPANY, elect to employ other persons to perform the same or similar services.

- D. The terms of this Agreement may be modified upon the mutual agreement of the COMPANY and the COUNTY as confirmed in writing.
- E. In the event that the COMPANY changes names, merges with another company, becomes a subsidiary or makes other substantial change in structure or in principals, the COUNTY reserves the right to terminate this Agreement subject to the terms described above.
- F. In the event of termination of this Agreement the COMPANY agrees to surrender any and all documents prepared by the COMPANY for the COUNTY in connection with this Agreement, of which, the COUNTY will shall have full ownership thereof, COMPANY shall retain copies of such documents for record purposes.

SECTION XXIII - DURATION OF AGREEMENT

This Agreement shall remain in full force and effect for a period of one (1) year after its date of execution, unless this Agreement is terminated by mutual consent of the parties as otherwise provided herein. In addition, subject to the COUNTY'S sole discretion, this Agreement may be extended in one (1) year increments for up to five (5) years beyond the initial one (1) year period of the agreement.

SECTION XXIV - DEFAULT

In the event the COMPANY fails to comply with the provisions of this Agreement, the COUNTY may declare the COMPANY in default by written notification. In the event partial payment has been made for professional services not completed, the COMPANY shall return any sums due to the COUNTY as a result of COMPANY'S default within ten (10) days after notice and demand that said sums are due. The COMPANY shall not be compensated on a percentage of any deficient professional services which have been

performed at the time the COUNTY declares a default. The COUNTY shall pay for that portion, if any, of the performed work which is used or useful to the COUNTY or by any other company retained by the COUNTY to finish the work to the extent that the COUNTY does not incur additional costs over those set forth in the COMPANY'S Agreement.

SECTION XXV - INSURANCE

The COMPANY will be required to procure and maintain, at their own expense and without cost to the COUNTY, until final acceptance by the COUNTY of all products or services covered by this Agreement, the following types of insurance. The policy limits required are to be considered minimum amounts.

- A. General Liability Insurance policy with a \$1,000,000 combined single limit for each occurrence to include the following coverages: Operations, Products and Completed Operations, Personal Injury, Contractual Liability covering this contract.
- B. Auto Liability Insurance which includes coverage for all owned, non-owned and rented vehicles with \$1,000,000 combined single limit for each occurrence.
- C. Workers' Compensation and Employers Liability Insurance covering all persons conducting operations on the COUNTY'S premises or on behalf of the COUNTY.
- D. Professional Liability Insurance in the amount of \$1,000,000 per claim covering the risk of errors and omissions in the professional services provided under this Agreement. Such coverage written on a "claims made" basis shall be maintained in force for five years after the final payment of services.

The COMPANY shall provide certificates of insurance to the COUNTY demonstrating that the aforementioned insurance requirements have been met prior to the commencement of work under this Agreement. The General Liability and Auto Liability certificates of insurance shall indicate that the policies have been endorsed to cover the COUNTY as an additional insured. All policies will be endorsed to the effect that they may not be cancelled or modified without thirty (30) days prior written notice to the COUNTY.

The insurance coverages enumerated above constitute the minimum requirements and shall in no way lessen or limit the liability of the COMPANY under the terms of the contract. Sub-COMPANY's insurance shall be the responsibility of the COMPANY.

SECTION XXVI – INDEMNIFICATION

The COMPANY shall hold the COUNTY harmless against any and all claims for bodily injury, sickness, disease, death, personal injury, damage to property or loss of use of any property or assets resulting therefrom, arising out of or resulting from the performance of the products or from the services for which the COUNTY is contracting hereunder, provided such is caused in whole or in part by any negligent act or omission of the COMPANY, or any subcontractor or any of their agents or employees, or arises from a job-related injury.

The COMPANY agrees to indemnify the COUNTY and pay the cost of the COUNTY'S legal defenses, including fees of attorneys as may be selected by the COUNTY, for all claims described in the hold harmless clause herein. Such payment on behalf of the COUNTY shall be in addition to any and all other legal remedies available to the COUNTY and shall not be considered to be the County's exclusive remedy.

Further, the COMPANY shall fully indemnify, defend, and hold harmless the COUNTY from any suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to violation or infringement of a trademark, copyright, patent, trade secret or intellectual property right, provided, however, that the foregoing obligation shall not apply to the extent such claims arise as a result of the COMPANY'S implementation of a County-originated design and/or specifications or materials provided to the COMPANY by COUNTY, COUNTY'S misuse or modification of the COMPANY'S products or COUNTY'S operation or use of the COMPANY'S products in a manner not contemplated by the Agreement or the task order.

If any work product used in services is the subject of an infringement suit, or in the COMPANY'S opinion is likely to become the subject of such a suit, the COMPANY may,

at its sole expense, procure for the COUNTY the right to continue using the product or to modify it to become non-infringing. If the COMPANY is not reasonably able to modify or otherwise secure the COUNTY the right to continue using the product, the COMPANY shall remove the product and refund the COUNTY the amounts paid in excess of a reasonable fee for past use. The COUNTY shall not be liable for any royalties.

The COMPANY'S obligations under the preceding paragraphs with respect to any legal action are contingent upon the COUNTY giving the COMPANY (1) prompt written notice of any action or threatened action, (2) the opportunity to take over and settle or defend any such action at the COMPANY'S sole expense, and (3) assistance in defending the action at the COMPANY'S sole expense. The COMPANY shall not be liable for any cost, expense, or compromise incurred or made by the COUNTY in any legal action without the COMPANY'S prior written consent, which shall not be unreasonably withheld.

It is agreed by the parties hereto that specific consideration has been received by the COMPANY under this Agreement for this hold harmless/indemnification provision.

SECTION XXVII - QUALITY CONTROL

The COMPANY agrees to a high level of quality control and accuracy. The COUNTY may request additional data collection or re-analysis of data at no expense to the COUNTY. If the original data collected and/or data analysis is found to be accurate and reasonable, the COMPANY shall be compensated for the additional work in accordance with Section V of this Agreement.

The COUNTY will evaluate the COMPANY'S performance upon completion of work. The evaluation will be used by the COUNTY in determining the COMPANY'S qualifications for future contracts with the COUNTY.

SECTION XXVIII- NON-EXCLUSIVE AGREEMENT

The parties acknowledge that this Agreement is not an exclusive agreement and the COUNTY may employ other professional or technical personnel to furnish services for

the COUNTY, as the COUNTY, in its sole discretion, finds is in the public interest. The COUNTY reserves the right to assign such work to the COMPANY as it may approve in the sole discretion of the COUNTY.

SECTION XXIX – PUBLIC ENTITY CRIMES

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.

SECTION XXX- INTEREST OF COMMISSIONERS AND OTHERS

No officers, members or employees of the COUNTY, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of this PROJECT, shall participate in any decision relating to this Agreement which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Agreement or the proceeds thereof.

SECTION XXXI - INTEREST OF COMPANY

The COMPANY covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Agreement. The COMPANY further covenants that in the performance of this Agreement, no person

having any such interest shall be employed.

SECTION XXXII - ENTIRETY OF AGREEMENT

This writing, together with documents referenced herein, embody the entire agreement and understanding between the parties hereto, and there are no other agreements and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

No alteration, change, or modification of the terms of this Agreement shall be valid unless made in writing, signed by both parties hereto as an addendum to this Agreement.

This Agreement, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

SECTION XXXIII – SEVERABILITY

In the event a court of competent jurisdiction finds any sentence, provision, paragraph, or section of this Agreement void or unenforceable, the remaining parts of this Agreement shall continue to full force and effect as though such sentence, provision, paragraph, section had been omitted from this Agreement.

SECTION XXXIV – SURVIVAL

The obligations and duties set forth in Sections IX, X, XII, XIII, XVII subsections D, E and F, XVIII, XIV, XX, XXII subsections C and F, XXVI, XXXIII shall survive termination, cancellation or expiration of this Agreement.

SECTION XXXV – EFFECTIVE DATE

The effective date of this Agreement means the date on which the last of the parties hereto executes this Agreement.

SECTION XXXVI - SCRUTINIZED COMPANIES

The COMPANY certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY or its subcontractors are found to have submitted a false certification; or if the COMPANY, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

If this Agreement is for more than one million dollars, the COMPANY certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the COUNTY may immediately terminate this Agreement at its sole option if the COMPANY, its affiliates, or its subcontractors are found to have submitted a false certification; or if the COMPANY, its affiliates, or its subcontractors are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.

The COMPANY agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions then they shall become inoperative.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals this
____ day of _____, 2019.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF BREVARD COUNTY, FLORIDA

Scott Ellis, Clerk

Kristine Isnardi, Chair

AS APPROVED BY THE BOARD ON: _____

Reviewed for legal form and content by:

Christine Valliere, Assistant County Attorney,

ATTEST:

Company Name.

MARINE RESOURCES COUNCIL

Leesa Souto, Executive Director

STATE OF FLORIDA §
COUNTY OF BREVARD §

I HEREBY CERTIFY that before me, an officer duly authorized to take acknowledgments, personally appeared _____ and _____ to me known to be the President and Secretary of _____, Inc., or provided as identification and who did (did not) take an oath, acknowledged before me that they executed the within instrument freely and voluntarily for the purposes therein expressed.

WITNESS my hand and official seal in the State and County last aforesaid this _____ day of _____, 2019.

(SEAL)

Signature

Notary Name (typed or printed)

Title or Rank

EXHIBIT "A"
SCOPE OF SERVICES FOR
SERVICE C
SAVE OUR INDIAN RIVER LAGOON FUNDED
PUBLIC OUTREACH AND MARKETING CAMPAIGN

The COMPANY shall be responsible at a minimum for the following:

- A. Development, designing and implementing a campaign of digital and print media that simplify a variety of topics and make them more understandable to the general public, businesses and commercial entities
- B. Preparing press releases and social marketing content to broaden visibility and creating awareness for each campaign.
- C. Development and implementing a campaign of activities for businesses and commercial entities.
- D. Evaluating the impact of online and offline marketing and outreach campaigns and brand awareness.
- E. Providing on-going recommendations to improve campaign performance, community impact and future campaigns.
- F. Maximizing all opportunities through partnerships and build continuing relationships with the media.
- G. Digital Marketing.
- H. Grassroots Marketing.
- I. Organize training and outreach for retail store staff.
- J. Providing tracking and reporting to track and target measurable behavioral changes.

Preparing a monthly report summarizing all activities performed to be submitted to the County.

EXHIBIT "B"

SCHEDULE OF FEES

Personnel	Main Duties	Hourly Rate
MRC - Leesa Souto	Research, Project Mgmt	\$80.00
MRC - Sondee Lima	Editing, education	\$65.00
MRC - Shannon Egger	Education	\$50.00
MRC - Kate Zehnder	Volunteer Coordination	\$50.00
UC - Kendra Jankowski	Media/General	\$120.00
UC - Matt Morgan	Design/Video	\$100.00
UC - Dorian Morgan	Research, Project Mgmt	\$150.00
Claudia Listopad	Research	\$155.00
Bill Paton	Programmer	\$116.00
Danielle Huffner, Kayleigh Huffner	GIS Technician	\$60.00