

**AGREEMENT FOR MANAGEMENT SERVICES BETWEEN  
THE GULF CONSORTIUM AND THE BALMORAL GROUP, LLC**

THIS AGREEMENT is by and between the Gulf Consortium, which is a legal entity and public body organized and created pursuant to an interlocal agreement among the 23 county governments along Florida's Gulf Coast (the "Consortium"), and The Balmoral Group, LLC, which is a Florida limited liability company, whose business address is 165 Lincoln Avenue, Winter Park, Florida 32789 (the "Contractor").

WHEREAS, the Consortium desires to obtain the professional services of a management company to aid in conducting the business of the Consortium; and

WHEREAS, the Contractor represents that it has the experience and expertise in the type of professional services that will be required by the Consortium; and

WHEREAS, the Consortium, through a selection process conducted in accordance with the requirements of law and Consortium policy, has selected Contractor as the entity to provide management services to the Consortium; and

WHEREAS, the Consortium seeks to engage the Contractor for the purpose of providing management services.

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES TO BE PROVIDED

The Contractor hereby agrees to provide to the Consortium management services in accordance with:

- A. The Request for Proposal for Management Services for the Gulf Consortium # BC-01-10-17-16 ("RFP"), which is attached hereto and incorporated herein as Exhibit A, to the extent that the RFP is not inconsistent with this Agreement; and
- B. The Contractor's submissions to the RFP, which is attached hereto and incorporated herein as Exhibit B, to the extent that the submission is not inconsistent with this Agreement or with Exhibit A.

2. FUND AVAILABILITY

The performance of the Consortium of any of its obligations under this Agreement shall be subject to and contingent upon the availability of funds lawfully expendable for the purposes of this Agreement for the current and any future periods provided for within this Agreement.

The following statement is included in this Agreement in accordance with section 218.77, Florida Statutes, regarding requirements for disclosure of contingencies associated with federal requirements: The payment of costs to the Contractor for the management services is contingent upon the receipt of federal funds and federal approval.

3. TERM OF AGREEMENT

The Agreement shall be for a period of two years, commencing on May 1, 2017, and shall continue until April 31, 2019. After the initial two year period, at the sole option of the Consortium, this Agreement may be extended for no more than two additional one year periods. Such one year extensions will be automatic unless the Consortium provides written notice of non-renewal to the Contractor no less than thirty (30) days prior to the expiration date of the then-current term.

4. COMPENSATION

The Contractor agrees that for the performance of the Services as outlined in Section 1 above, it shall be compensated by the Gulf Consortium in a manner that maximizes the use of federal funds to pay for such services and in no event shall the compensation exceed EIGHT THOUSAND FIVE HUNDRED EIGHTY EIGHT DOLLARS (\$8,588) per month for the initial two-year period. The compensation shall include all services to be provided, including expenses such as copying, long distance phone, travel, and general overhead. If this Agreement is extended beyond the initial two-year period, Contractor's compensation for subsequent years shall not exceed SEVEN THOUSAND SIX HUNDRED FORTY TWO DOLLARS (\$7,642) per month.

5. PAYMENTS

In accordance with part VII of Chapter 218, Florida Statutes, the Consortium shall make such payments within forty-five (45) days of submission and approval of invoice for services.

6. STATUTORY PROMPT PAYMENT INFORMATION REQUIREMENTS

A. Notices to the Consortium are to be submitted to:

Name: Lynn M. Hoshihara, Esq.  
Street Address: 1500 Mahan Drive, Suite 200  
City, State, Zip Code: Tallahassee, FL 32308  
Telephone: 850-224-4070  
E-mail: lhoshihara@ngnlaw.com

B. Notices to the Contractor are to be submitted to:

Name: Valerie Seidel  
Street Address: 165 Lincoln Avenue  
City, State, Zip Code: Winter Park, FL 32789  
Telephone: 407-629-2185  
E-mail: vseidel@balmoralgroup.us

C. Invoice: The Contractor shall submit requests for payment to the Consortium in the following form:

A numbered invoice document with date of invoice; reference of the Consortium contract number; itemized listing of all goods and services being billed with unit prices and extended pricing; Contractor's name, address, billing contact person information, and Federal tax identification number. The invoice must be properly addressed and delivered to the contact identified above.

- D. **Payment Dispute Resolution:** Resolution 2015-01 of the Consortium establishes the Gulf Consortium Purchasing Policy for Management Services. The Resolution and part VII of chapter 218, Florida Statutes, establish the policy and procedures for payment disputes that apply to this Agreement.

## 7. STATUS

The Contractor at all times relevant to this Agreement shall be an independent contractor and in no event shall the Contractor nor any employees or sub-contractors under it be considered to be employees of the Consortium.

## 8. INSURANCE

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

- A. **Minimum Limits of Insurance.** Contractor shall maintain limits no less than:

1. **General Liability:** \$1,000,000 combined single limit per occurrence for bodily injury, personal injury and property damage with a \$2,000,000 annual aggregate.
2. **Automobile Liability:** \$1,000,000 combined single limit per accident for bodily injury and property damage. (Non-owned, Hired Car).
3. **Workers' Compensation and Employers Liability:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws and Employer's Liability with a limit of \$500,000 per accident, \$500,000 disease policy limit, \$500,000 disease each employee. Waiver of Subrogation in lieu of Additional Insured is required.
4. **Professional Liability Insurance, including errors and omissions:** for all services provided under the terms of this Agreement with minimum limits of \$1,000,000.00 Dollars per occurrence; or claims made with "tail coverage" extending three (3) years beyond the term of the Agreement. Proof of "tail coverage" must be submitted with the invoice for final payment.

- B. **Deductibles and Self-Insured Retentions**

Any deductibles or self-insured retentions must be declared to and approved by the Consortium. At the option of the Consortium, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Consortium, its officers, officials, employees and volunteers; or the Consortium shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

**C. Other Insurance Provisions**

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

**1. General Liability and Automobile Liability Coverages (the Consortium is to be named as Additional Insured).**

- a. The Consortium, its officers, officials, employees and volunteers are to be covered as insureds as respects; liability arising out of activities performed by or on behalf of the Contractor, including the insured's general supervision of the Contractor; products and completed operations of the Contractor; premises owned, occupied or used by the Contractor; or automobiles owned, leased, hired or borrowed by the Contractor. The coverage shall contain no special limitations on the scope of protections afforded the Consortium, its officers, officials, employees or volunteers.
- b. The Contractor's insurance coverage shall be primary insurance as respects the Consortium, its officers, officials, employees and volunteers. Any insurance of self-insurance maintained by the Consortium, its officers, officials, employees or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.
- c. Any failure to comply with reporting provisions of the policies shall not affect coverage provided to the Consortium, its officers, officials, employees or volunteers.
- d. The Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

**2. All Coverages**

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Consortium.

- D. **Acceptability of Insurers.** Insurance is to be placed with insurers with a Best's rating of no less than A:VII.
- E. **Verification of Coverage.** Contractor shall furnish the Consortium with certificates of

insurance and with original endorsements effecting coverage required by this clause. The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf. All certificates and endorsements are to be received and approved by the Consortium before work commences. The Consortium reserves the right to require complete, certified copies of all required insurance policies at any time.

- F. Subcontractors. Contractors shall include all subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

9. PERMITS

The Contractor shall pay for and obtain all necessary permits as required by law.

10. LICENSES

The Contractor shall be responsible for obtaining and maintaining its city or county occupational license and any licenses required pursuant to the laws of Leon County, the City of Tallahassee, or the State of Florida. Should the Contractor, by reason of revocation, failure to renew, or any other reason, fail to maintain his license to operate, the Contractor shall be in default as of the date such license is lost.

11. ASSIGNMENTS

- A. In providing services under this Agreement, the Contractor agrees to utilize the services of the team of consultants designated in its bid proposals. If the Contractor desires to utilize the services of consultants that were not part of the Contractor's proposal submission team, it can do so only with the written approval of the Consortium.
- B. This Agreement shall not be assigned or sublet as a whole or in part without the written consent of the Consortium. The Contractor shall not assign any monies due or to become due to it hereunder without the previous written consent of the Consortium.

12. INDEMNIFICATION

The Contractor agrees to indemnify and hold harmless the Consortium, its officials, officers, representatives, employees and agents, from and against any and all claims, damages, liabilities, losses, costs, or suits of any nature whatsoever arising out of, because of, or due to any negligent acts or omissions of the Contractor, its delegates, employees and agents, arising out of or under this Agreement, including reasonable attorney's fees. The Contractor acknowledges that ten dollars (\$10.00) of the amount paid to the Contractor is sufficient consideration for the Contractor's indemnification of the Consortium.

### 13. AUDITS, RECORDS, AND RECORDS RETENTION

The Contractor agrees:

- a. To establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting procedures and practices, which sufficiently and properly reflect all revenues and expenditures of funds provided by the Consortium under this Agreement.
- b. To the extent the Contractor is performing services on behalf of the Consortium, the Contractor must:
  - (i) Keep and maintain public records that ordinarily and necessarily would be required by the Consortium in order to perform the service;
  - (ii) Provide the public with access to public records on the same terms and conditions that the Consortium would provide the records and at a cost that not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
  - (iii) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law;
  - (iv) Meet all requirements for retaining public records and transfer, at no cost, to the Consortium all public records in possession of the Contractor upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the Consortium in a format that is compatible with the Consortium's information technology systems.
- c. To retain all client records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to this Agreement for a period of five (5) years after termination of the Agreement, or if an audit has been initiated and audit findings have not been resolved at the end of five (5) years, the records shall be retained until resolution of the audit findings or any litigation which may be based on the terms of this Agreement.
- d. Upon completion or termination of the Agreement and at the request of the Consortium, the Contractor shall cooperate with the Consortium to facilitate the duplication and transfer of any said records or documents during the required retention period as specified in this Section.
- e. To assure that these records shall be subject at all reasonable times to inspection, review, or audit by Federal, state, or other personnel duly authorized by the Consortium.
- f. Persons duly authorized by the Consortium and Federal auditors, pursuant to 45 CFR, Part 92.36(l)(10), shall have full access to and the right to examine any of provider's Agreement and related records and documents, regardless of the form in

which kept, at all reasonable times for as long as records are retained.

- g. To include these aforementioned audit and record keeping requirements in all approved subcontracts and assignments.

14. MONITORING

To permit persons duly authorized by the Consortium to inspect any records, papers, documents, facilities, goods, and services of the provider which are relevant to this Agreement, and interview any clients and employees of the provider to assure the Consortium of satisfactory performance of the terms and conditions of this Agreement.

Following such evaluation, the Consortium will deliver to the Contractor a written report of its findings and will include written recommendations with regard to the Contractor's performance of the terms and conditions of this Agreement. The Contractor shall correct all noted deficiencies identified by the Consortium within the specified period of time set forth in the recommendations. The Contractor's failure to correct noted deficiencies may, at the sole and exclusive discretion of the Consortium, result in any one or any combination of the following: (1) the Contractor being deemed in breach or default of this Agreement; (2) the withholding of payments to the Contractor by the Consortium; and (3) the termination of this Agreement for cause.

15. TERMINATION

The Consortium may terminate this Agreement without cause, by giving the Contractor thirty (30) days written notice of termination. Either party may terminate this Agreement for cause by giving the other party hereto thirty (30) days written notice of termination. The Consortium shall not be required to give Contractor such thirty (30) day written notice if, in the opinion of the Consortium, the Contractor is unable to perform its obligations hereunder, or if in the Consortium's opinion, the services being provided are not satisfactory. In such case, the Consortium may immediately terminate the Agreement by mailing a notice of termination to the Contractor. The Consortium may retain/withhold payment for nonperformance if deemed appropriate to do so by the Consortium.

16. PUBLIC ENTITY CRIMES STATEMENT

In accordance with Section 287.133, Florida Statutes, Contractor hereby certifies that to the best of his knowledge and belief neither Contractor nor his affiliates has been convicted of a public entity crime. Contractor and his affiliates shall provide the Consortium with a completed public entity crime statement form no later than February 15 of each year this Agreement is in effect. Violation of this section by the Contractor shall be grounds for cancellation of this Agreement by the Consortium.

17. UNAUTHORIZED ALIENS

The Contractor agrees that unauthorized aliens shall not be employed nor utilized in the performance of the requirements of this solicitation. The Consortium shall consider the employment or utilization of unauthorized aliens a violation of Section 274A(e) of the

Immigration and Naturalization Act (8 U.S.C. 1324a). Such violation shall be cause for unilateral termination of this Agreement by the Consortium.

18. EMPLOYMENT ELIGIBILITY VERIFICATION

- a. Contractor agrees that it will enroll and participate in the federal E-Verify Program for Employment Verification under the terms provided in the "Memorandum of Understanding" governing the program. Contractor further agrees to provide to the Consortium, within thirty days of the effective date of this contract/amendment/extension, documentation of such enrollment in the form of a copy of the E-Verify "'Edit Company Profile' screen", which contains proof of enrollment in the E-Verify Program (this page can be accessed from the "Edit Company Profile" link on the left navigation menu of the E-Verify employer's homepage).
- b. Contractor further agrees that it will require each subcontractor that performs work under this contract to enroll and participate in the E-Verify Program within sixty days of the effective date of this contract/amendment/extension or within sixty days of the effective date of the contract between the Contractor and the subcontractor, whichever is later. The Contractor shall obtain from the subcontractor(s) a copy of the "Edit Company Profile" screen indicating enrollment in the E-Verify Program and make such record(s) available to the Agency upon request.
- c. Contractor will utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of: (a) all persons employed during the term of the Agreement by Contractor to perform employment duties within Florida; and (b) all persons (including subcontractors) assigned by Contractor to perform work pursuant to the Agreement.
  - 1) Contractor must use E-Verify to initiate verification of employment eligibility for all persons employed during the term of the Agreement by Contractor to perform employment duties within Florida within 3 business days after the date of hire.
  - 2) Contractor must initiate verification of each person (including subcontractors) assigned by Contractor to perform work pursuant to the Agreement within 60 calendar days after the date of execution of this contract or within 30 days after assignment to perform work pursuant to the Agreement, whichever is later.
- d. Contractor further 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 Consortium or other authorized state entity consistent with the terms of the Memorandum of Understanding.
- e. Compliance with the terms of this Employment Eligibility Verification provision is made an express condition of this contract and the Consortium may treat a failure to comply as a material breach of the contract.



19. NON-WAIVER

Failure by the Consortium to enforce or insist upon compliance with any of the terms or conditions of this Agreement or failure to give notice or declare this Agreement terminated shall not constitute a general waiver or relinquishment of the same, or of any other terms, conditions or acts; but the same shall be and remain at all times in full force and effect.

20. DELAY

No claim for damages or any claim other than for an extension of time shall be made or asserted against the Consortium by reason of any delays. The Contractor shall not be entitled to an increase in the contract sum or payment or compensation of any kind from the Consortium for direct, indirect, consequential, impact or other costs, expenses or damages, including but limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference or hindrance from any cause whatsoever, whether such delay, disruption, interference or hindrance be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable; provided, however, that this provision shall not preclude recovery of damages by the Contractor for hindrances or delays due solely to fraud, bad faith, or active interference on the part of the Consortium or its agents. Otherwise, the Contractor shall be entitled only to extensions of the contract time as the sole and exclusive remedy for such resulting delay, in accordance with and to the extent specifically provided above.

21. ENTIRE AGREEMENT

This Agreement constitutes the entire understanding between the parties with respect to the transaction contemplated herein and supersedes all prior written or oral negotiations, commitments or writings. All future modifications to this Agreement shall be in writing signed by both parties.

22. VENUE

Venue for all actions arising under this Agreement shall lie in Leon County, Florida.

23. CONSTRUCTION


The validity, construction, and effect of this Agreement shall be governed by the laws of the State of Florida.

24. CONFLICTING TERMS AND CONDITIONS

In the instance that any other agreement exists concerning the matters herein, then the terms and conditions in this Agreement shall prevail over all other terms and conditions.


WHERETO, the parties have set their hands and seals effective the date whereon the last party executes this Agreement.

**GULF CONSORTIUM**

By:   
Grover Robinson, Chairman

Date: 4/6/2017


**THE BALMORAL GROUP, LLC**

By:   
President or designee

Title: President


Date: 3/8/17

**SECRETARY/TREASURER:**

By:   
George Neugent

Date: 4/6/2017

Approved as to Form:

BY:   
Lynn M. Hoshihara, Esq.  
Nabors, Giblin & Nickerson, P.A.  
General Counsel to  
the Gulf Consortium