

NOVATION AGREEMENT BETWEEN
HILLSBOROUGH COUNTY,
(CONTRACTOR1)
AND
(CONTRACTOR2)

THIS Novation Agreement, is made and entered into by and between Hillsborough County, Florida, a political subdivision of the State of Florida (the “**COUNTY**”); *(original contractor)* (“**CONTRACTOR1**”); and *(vendor taking over the contract)* (“**CONTRACTOR2**”), which three entities shall be referred to collectively as the “**PARTIES**” and individually as “**PARTY**”.

WITNESSETH

WHEREAS, CONTRACTOR1 was previously selected by the COUNTY as the contractor for such purposes as more particularly described in _____ entitled “_____” *(identify contractual document or authorization)* as modified or amended (hereinafter the “**AGREEMENT**”), a copy of which is attached hereto as Exhibit 1 and is made a part hereof for all purposes;

WHEREAS, _____ *(specify either CONTRACTOR1 or CONTRACTOR2)* has represented to the COUNTY that CONTRACTOR1 has been legally merged with or acquired in whole or in part by CONTRACTOR2, resulting in the merged entity which retains the identity of CONTRACTOR2 for all purposes;

WHEREAS, the COUNTY, CONTRACTOR1 and CONTRACTOR2 each desire to effectuate the purposes described herein in a manner that will ensure continuous and uninterrupted services to the COUNTY as set forth in the AGREEMENT;

WHEREAS, Article/Section/Paragraph _____ of the AGREEMENT provides for the modification and assignment of the AGREEMENT, including the assignment of the obligation thereto;

WHEREAS, CONTRACTOR2 represents that it will comply with the terms of the AGREEMENT which have been applicable to CONTRACTOR1;

WHEREAS, based upon the representations of CONTRACTOR2, the undersigned PARTIES hereto are in agreement that CONTRACTOR2 is the successor in interest to CONTRACTOR1 and that therefore CONTRACTOR2 should replace CONTRACTOR1 as the contractor whose duties are described in the AGREEMENT;

WHEREAS, CONTRACTOR2 agrees to assume all duties, obligation and responsibilities set forth in the AGREEMENT as applicable to CONTRACTOR1, without limitation, upon the Effective Date of this Novation Agreement; and

WHEREAS, the COUNTY and CONTRACTOR1 agree to extinguish the AGREEMENT and replace the AGREEMENT with this Novation Agreement wherein CONTRACTOR2 shall assume all the rights, duties, obligations and responsibilities that were previously applicable to CONTRACTOR1 under the AGREEMENT.

NOW THEREFORE, in consideration of these mutual covenants and provisions, the COUNTY, CONTRACTOR1, and CONTRACTOR2 hereby agree to the following:

1. The above recitals are true and correct and are incorporated into this Novation Agreement for all purposes.
2. The PARTIES acknowledge the existence and previous validity of the AGREEMENT between the COUNTY and CONTRACTOR1 as described above. The PARTIES further acknowledge that each PARTY to this Novation Agreement has read and fully understand the AGREEMENT.
3. The PARTIES all mutually agree to form a new contract, which is memorialized exclusively by the terms contained in this Novation Agreement.
4. The parties all mutually agree that this Novation Agreement shall take the place of the AGREEMENT, and that the AGREEMENT is hereby extinguished. A copy of the AGREEMENT is attached hereto and incorporated into this Novation Agreement by reference for the purpose of defining the rights, duties, obligations and responsibilities of CONTRACTOR2 and the COUNTY; and the terms and conditions that applied to CONTRACTOR1 under the AGREEMENT shall now apply CONTRACTOR2.
5. The COUNTY hereby agrees to transfer to CONTRACTOR2 all the rights, duties, obligations and responsibilities that the AGREEMENT attributes to CONTRACTOR1 as of the Effective Date of this Novation Agreement.
6. CONTRACTOR2 hereby assumes all of the rights, duties, obligations and responsibilities of CONTRACTOR1 under the AGREEMENT as of the Effective Date of this Novation Agreement.
7. CONTRACTOR2 hereby agrees that the Equal Opportunity Clause in the AGREEMENT shall be replaced with the following language:

“CONTRACTOR2 agrees to comply with the requirements of all applicable Federal, State, and County laws, Executive Orders, regulations, rules, and ordinances prohibiting and/or relating to discrimination, including, but not limited to, Hillsborough County, Florida – Code of Ordinances and Laws, Part A, Chapter 30, Article II (Hillsborough County Human Rights Ordinance) as amended, which prohibits illegal discrimination on the basis of actual or perceived race, color, sex, age, religion, national origin, disability, marital status, sexual orientation, or gender identity or expression, in employment, public accommodations, real estate transactions and practices, County contracting and procurement activities, and credit extension practices.”

8. The COUNTY and CONTRACTOR2 hereby agree that the following language shall be added to the AGREEMENT:

“Legally Required Statement and Provisions Regarding Access to Records for Service Contracts

The Parties acknowledge and agree that the statement and provisions below are required by Florida Statute to be included in this contract for services. The inclusion of this statement and provisions below shall not be construed to imply that the Contractor/Service Provider has been delegated any governmental decision-making authority, governmental responsibility or governmental function or that the Contractor/Service Provider is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, or that the statement or provisions are otherwise applicable to the Contractor/Service Provider. As stated below, the Contractor/Service Provider may contact the County’s Custodian of Public Records with questions regarding the application of the Public Records Law; however, the Contractor/Service Provider is advised to seek independent legal counsel as to its legal obligations. The County cannot provide the Contractor/Service Provider advice regarding its legal rights or obligations.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

- i) _____ (name & telephone number),
- ii) _____ (email address),
- iii) _____(County department name & mailing address)

If under the AGREEMENT, the Contractor is providing services and is acting on behalf of the County as provided under Section 119.011(2), Florida Statutes, the Contractor will comply with public records law, and agrees to:

- i) Keep and maintain public records required by the County to perform the services.
- ii) Upon request from the County’s custodian of public records, provide the County with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in 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 for the duration of the AGREEMENT term and following completion of the AGREEMENT if the Contractor does not transfer the records to the County.

iv) Upon completion of the AGREEMENT, transfer at no cost to the County, all public records in possession of the Contractor or keep and maintain public records required by the County to perform the service. If the Contractor transfers all public records to the County upon completion of the AGREEMENT, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Contractor keeps and maintains public records upon completion of the AGREEMENT, the Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the information technology systems of the County.

Failure of the Contractor to comply with Chapter 119, Florida Statutes, and/or the provisions set forth above, where applicable, shall be grounds for immediate unilateral termination of the AGREEMENT by the County."

9. CONTRACTOR2 agrees to comply with all the terms and provisions of the AGREEMENT which were applicable to CONTRACTOR1 immediately prior to the Effective Date of this Novation Agreement, and CONTRACTOR2 further agrees to be bound by the terms and conditions of the AGREEMENT in all respects as if CONTRACTOR2 was the original PARTY to the AGREEMENT in lieu of CONTRACTOR1.
10. CONTRACTOR2 represents and warrants that it is either a validly formed and duly existing corporation under the laws of the State of Florida, or that it has a current Certificate of Authority from the Florida Department of State and is authorized to transact business in the State of Florida.
11. The PARTIES all mutually agree that this Novation Agreement is legally binding upon each of them and that this Novation Agreement is legally valid.
12. Pursuant to the AGREEMENT, all notices directed to CONTRACTOR2 are to be delivered in the manner described therein, to:

Name:
Address:
Address:
13. The PARTIES each represent as an express term of this Novation Agreement, that each PARTY signing below has the authority to bind the entity for which each signature is purported to represent.
14. By signing below, both CONTRACTOR2 and CONTRACTOR1 represent that CONTRACTOR1 has merged into CONTRACTOR2, that CONTRACTOR1 no longer

PROCUREMENT POLICY ATTACHMENT 2B
NOVATION AGREEMENT COUNTY ADMINISTRATOR – SERVICES CONTRACTS

exists as a separate legal entity for any purposes, and that CONTRACTOR2 has the means and resources to perform the obligations described above.

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NOVATION AGREEMENT COUNTY ADMINISTRATOR – SERVICES CONTRACTS

IN WITNESS WHEREOF, the PARTIES have executed this Agreement on the date first written above.

Dated this _____ day of _____, 20____ (the “Effective Date”)

**COUNTY: HILLSBOROUGH COUNTY,
FLORIDA**

BY: _____
COUNTY ADMINISTRATOR

CONTRACTOR1

AUTHORIZED SIGNATURE

PRINTED NAME

TITLE

DATE

CONTRACTOR2

AUTHORIZED SIGNATURE

PRINTED NAME

TITLE

DATE

Approved as to form
and legal sufficiency:

COUNTY ATTORNEY
By: _____
Assistant County Attorney

BOCC Staff	Approval	Date
Department Fiscal		
Department Director		
Procurement		
County Attorney: Approved as to Form and Legal Sufficiency		

PROCUREMENT POLICY ATTACHMENT 2B
NOVATION AGREEMENT COUNTY ADMINISTRATOR – SERVICES CONTRACTS

ACKNOWLEDGEMENT OF CONTRACTOR1, IF A CORPORATION

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) _____ by (name of officer or agent, title of officer of agent) _____ of (name of corporation acknowledging) _____ a (state or place of incorporation) _____ corporation, on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced (type of identification) _____ as identification and did certify to have knowledge of the matters stated in the foregoing instrument and certified the same to be true in all respects. Subscribed and sworn to (or affirmed) before me this (date) _____.

(Official Notary Signature and Notary Seal) Commission Number _____

(Name of Notary typed, printed or stamped) Commission Expiration Date _____

ACKNOWLEDGEMENT OF CONTRACTOR1, IF A PARTNERSHIP

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) _____ by (name of officer or agent, title of officer of agent) _____ of (name of corporation acknowledging) _____ a (state or place of incorporation) _____ corporation, on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced (type of identification) _____ as identification and did certify to have knowledge of the matters stated in the foregoing instrument and certified the same to be true in all respects. Subscribed and sworn to (or affirmed) before me this (date) _____.

(Official Notary Signature and Notary Seal) Commission Number _____

(Name of Notary typed, printed or stamped) Commission Expiration Date _____

ACKNOWLEDGEMENT OF CONTRACTOR1, IF AN INDIVIDUAL

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) _____ by (name of officer or agent, title of officer of agent) _____ of (name of corporation acknowledging) _____ a (state or place of incorporation) _____ corporation, on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced (type of identification) _____ as identification and did certify to have knowledge of the matters stated in the foregoing instrument and certified the same to be true in all respects.

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Subscribed and sworn to (or affirmed) before me this (date) _____.

(Official Notary Signature and Notary Seal) Commission Number _____

(Name of Notary typed, printed or stamped) Commission Expiration Date _____

**PROCUREMENT POLICY ATTACHMENT 2B
NOVATION AGREEMENT COUNTY ADMINISTRATOR – SERVICES CONTRACTS**

ACKNOWLEDGEMENT OF CONTRACTOR2, IF A CORPORATION

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) _____ by (name of officer or agent, title of officer of agent) _____ of (name of corporation acknowledging) _____ a (state or place of incorporation) _____ corporation, on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced (type of identification) _____ as identification and did certify to have knowledge of the matters stated in the foregoing instrument and certified the same to be true in all respects.

Subscribed and sworn to (or affirmed) before me this (date) _____.

(Official Notary Signature and Notary Seal) Commission Number _____

(Name of Notary typed, printed or stamped) Commission Expiration Date _____

ACKNOWLEDGEMENT OF CONTRACTOR2, IF A PARTNERSHIP

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) _____ by (name of officer or agent, title of officer of agent) _____ of (name of corporation acknowledging) _____ a (state or place of incorporation) _____ corporation, on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced (type of identification) _____ as identification and did certify to have knowledge of the matters stated in the foregoing instrument and certified the same to be true in all respects.

Subscribed and sworn to (or affirmed) before me this (date) _____.

(Official Notary Signature and Notary Seal) Commission Number _____

(Name of Notary typed, printed or stamped) Commission Expiration Date _____

ACKNOWLEDGEMENT OF CONTRACTOR2, IF AN INDIVIDUAL

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this (date) _____ by (name of officer or agent, title of officer of agent) _____ of (name of corporation acknowledging) _____ a (state or place of incorporation) _____ corporation, on behalf of the corporation, pursuant to the powers conferred upon said officer or agent by the corporation. He/she personally appeared before me at the time of notarization, and is personally known to me or has produced (type of identification) _____ as identification and did certify to have knowledge of the matters stated in the foregoing instrument and certified the same to be true in all respects.

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Commission Expiration Date _____

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(Name of Notary typed, printed or stamped)
