

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement for Professional Services is made this _____ day of _____, 2019 by and between the **TAMPA BAY REGIONAL PLANNING COUNCIL**, an independent special district of the State of Florida, (TBRPC), and Critical Integrated Solutions, Inc. (CONSULTANT), a (corporation or partnership as appropriate) in the State of Florida that is authorized to do business in the State of Florida, collectively referred to as “the Parties”.

WITNESSETH:

WHEREAS, TBRPC desires to retain CONSULTANT to provide certain professional services in support of Small Business Disaster Recovery Tabletop Exercise Facilitation and Small Business Disaster Recovery Audiovisual Services; and

WHEREAS, TBRPC has selected CONSULTANT in accordance with its applicable procurement policy; and

WHEREAS, CONSULTANT desires to provide the professional services, as an independent contractor, required by TBRPC with respect to the Project, as hereinafter defined;

NOW, THEREFORE, in consideration of the premises set forth above, and of the mutual promises set forth below, and other good and valuable consideration, the sufficiency and adequacy of which are hereby acknowledged, the parties hereto, intending to be legally bound, agree as follows:

- 1.0 **DEFINITIONS.** The following terms as used in this Agreement shall have the following meanings:
 - 1.1 Agreement - This written document, as it may be amended from time to time in accordance with paragraph 19.2 hereof.
 - 1.2 Date of Commencement - The date on which TBRPC delivers to CONSULTANT written notice to proceed with the Services.
 - 1.3 Law - All laws, statutes, rules, regulations, ordinances, codes and/or orders applicable to the Services.
 - 1.4 Project - The professional services to be performed by CONSULTANT as set forth in the Scope of Work attached hereto as Exhibit “A”.
 - 1.5 Services - The services as provided for in Attachment "A", as well as any and all obligations, duties and responsibilities required of CONSULTANT pursuant to this Agreement.

- 1.6 Subconsultant – All contractors, subcontractors, consultants, subconsultants, suppliers, experts and other entities retained by CONSULTANT to perform or provide any portion of the Services required hereunder.
- 2.0 ENGAGEMENT OF SERVICES. TBRPC hereby contracts with CONSULTANT for CONSULTANT to perform the Services, and CONSULTANT hereby agrees to perform the Services upon the terms and conditions set forth in this Agreement.
- 3.0 TERM. This Agreement shall terminate on October 1, 2020, or at such time as all Services required hereunder have been performed, or this Agreement is sooner terminated in accordance with the procedures set forth herein, whichever occurs first.
- 4.0 PROJECT COMPENSATION.
- 4.1 For the timely and proper performance of the Services, TBRPC shall pay CONSULTANT an amount not to exceed the total compensation set forth in Exhibit "B", in accordance with the payment schedule also set forth in Exhibit "B", which is attached hereto and made a part hereof. Within and subject to the total amount payable to CONSULTANT, TBRPC shall reimburse CONSULTANT for travel expenses subject to the limitations of Section 112.061, Florida Statutes, provided CONSULTANT (a) maintains appropriate documentation substantiating the expense, (b) discloses that such claimed expense is true and correct as to every material matter, and (c) honors a claim for refund by TBRPC should such reimbursement be in excess of the statutory limit.
- 5.0 PROJECT SCHEDULING. CONSULTANT shall perform the Services in accordance with the milestone dates and/or progress schedule set forth in Exhibit "C".
- 6.0 CONSULTANT'S REPRESENTATIONS AND WARRANTIES. CONSULTANT represents and warrants to TBRPC as follows:
- 6.1 CONSULTANT is duly authorized to conduct business in the State of Florida.
- 6.2 CONSULTANT has, or it will secure at its own expense, all personnel, facilities, and equipment required to perform and complete the Services.
- 6.3 CONSULTANT shall maintain an adequate and competent staff of professionals licensed and located within the State of Florida. CONSULTANT shall designate in writing a single representative with whom TBRPC shall coordinate. This representative shall have authority to transmit instructions, receive information, interpret and deliver CONSULTANT's policy and decisions related to the Services and bind CONSULTANT with respect to any matter arising out of or relating to this Agreement.
- 6.4 CONSULTANT has or shall secure all licenses or permits required by Law for the performance of the Services and shall comply with all Laws in effect at the time of the execution of this Agreement and the time of performance of the Services.

- 6.5 CONSULTANT has familiarized itself with the nature and extent of this Agreement, the Project, the Services, the site, locality, and all local conditions and Law that may affect CONSULTANT's performance of this Agreement, including CONSULTANT's compensation, the progress schedule and/or the performance or furnishing of the Services.
- 6.6 CONSULTANT has reviewed this Agreement (including its Schedules) and all available information and data shown or indicated in this Agreement and has given TBRPC written notice of all conflicts, errors, ambiguities, or discrepancies that it has discovered in this Agreement or information or data, and the written resolution thereof by TBRPC is acceptable to CONSULTANT.
- 6.7 CONSULTANT shall obtain and review all information and data which relates to the Services or which CONSULTANT may reasonably anticipate may affect cost, scheduling, progress, performance or furnishing of the Services, including, but not limited to, information and data related to the Project work of others under separate contracts, to the extent that such work may interface with the Services hereunder.
- 6.8 At all times during the performance of the Services, CONSULTANT shall comply with Title VII of the Civil Rights Act of 1964, as amended (45 C.F.R. Part 1010), and the Florida Civil Rights Act of 1992. CONSULTANT shall not discriminate in any form or manner against its employees or applicants for employment on the basis of race, color, national origin, religion, sex, age, handicap or marital status. Further, CONSULTANT shall comply with all applicable rules, regulations or executive orders promulgated to give effect to the Civil Rights Act of 1964, as amended.
- 6.9 CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for CONSULTANT, any fee, commission, percentage, gift, or other consideration, contingent upon or resulting from the award or making of this Agreement. CONSULTANT represents that it has complied with the provisions of Section 287.055(6), Florida Statutes.
- 6.10 CONSULTANT has represented to TBRPC that CONSULTANT has special expertise in the type of professional services to be provided pursuant to this Agreement and CONSULTANT acknowledges that such representations were a material inducement to TBRPC to enter into this Agreement with CONSULTANT.
- 6.11 CONSULTANT shall immediately notify TBRPC if it becomes aware of any facts or circumstances which may reasonably give rise to any claim against TBRPC for Services performed under or related to the Services performed under this Agreement.
- 7.0 TBRPC's DUTIES.

- 7.1 TBRPC shall review and consider, in a reasonably prompt and thorough fashion, all applications for payments, reports, schedules, estimates, drawings, proposals or other documents presented to TBRPC by CONSULTANT and shall inform CONSULTANT of all of TBRPC's decisions or otherwise take appropriate action within a reasonable time so as to not unreasonably delay the Services of CONSULTANT.
- 7.2 TBRPC shall designate in writing a single representative with whom CONSULTANT shall coordinate. This representative shall have authority to transmit instructions, receive information and interpret and deliver TBRPC's policy and decisions pertinent to the Services. However, no such representative of TBRPC shall be authorized to approve any modification or amendment to this Agreement, including, but not limited to, authorizing any Additional Services.
- 7.3 TBRPC shall cooperate in providing to CONSULTANT, upon CONSULTANT's specific request, all existing and available studies, reports, surveys and other information and data regarding the Project, to the extent such items are in TBRPC's possession and TBRPC has actual knowledge of their existence and location.

8.0 CHANGE OF PLAN.

- 8.1 In the event the Services or Project is entirely or partly suspended for one or more periods of time, there shall be no claim for compensation for the suspended period(s). Upon resumption of the Services or Project, CONSULTANT shall resume the Services until the Services are completed in accordance with this Agreement, and the time for completion of the Services which were suspended shall be extended for the duration of the suspension.

9.0 TERMINATION OF AGREEMENT.

- 9.1 TBRPC shall have the right to terminate this Agreement, in whole or in part, without cause upon written notice to CONSULTANT. In the event of any such termination without cause, CONSULTANT's sole and exclusive recovery against TBRPC shall be limited to that portion of CONSULTANT's compensation earned to the date of termination, together with any costs reasonably incurred by CONSULTANT that are directly attributable to the termination. The CONSULTANT shall not be entitled to any other or further recovery against TBRPC, including, but not limited to, anticipated fees or profits on Services not required to be performed. TBRPC shall determine that portion of the compensation earned for any incomplete Services based upon the ratio of such part of the Services completed relative to the entire Services. Any such determination shall be made in TBRPC's sole discretion.

9.2 If TBRPC violates the provisions of this Agreement, and if said violation continues for sixty (60) days after CONSULTANT has delivered to TBRPC written notice of such violation, then CONSULTANT may, without prejudice to any other right or remedy, terminate or cancel this Agreement by giving TBRPC written notice of such termination or cancellation. In the event of any such termination by CONSULTANT, CONSULTANT's sole and exclusive rights and remedies against TBRPC shall be the same as and limited to those which are set forth in paragraph 9.1 above.

9.5 Upon any termination of this Agreement pursuant to paragraphs 9.1 or 9.2 above and payment by TBRPC as required under those paragraphs, CONSULTANT shall deliver to TBRPC, within ten (10) days of such payment, all papers, drawings, models and other material prepared by and for CONSULTANT with respect to the Project.

10.0 WAIVER.

10.1 CONSULTANT's acceptance of final payment shall constitute a full waiver of any and all claims by CONSULTANT against TBRPC arising out of and relating to this Agreement or otherwise related to the Project, except those previously made in writing and identified by CONSULTANT as unsettled at the time it submits its invoice for final payment. Neither the acceptance of the Services nor any payment by TBRPC shall be deemed to be an acceptance of defective or incomplete Services or waiver of any of TBRPC's rights against CONSULTANT.

11.0 STATUS REPORTS AND INSPECTIONS. TBRPC shall be entitled at all times to be advised of the status of the Project, including, but not limited to, the Services of CONSULTANT. CONSULTANT shall cooperate with TBRPC and its agents to keep TBRPC advised as to the status of the Project and Services. TBRPC and/or its authorized representative shall have the right to visit the office of CONSULTANT in order to inspect the Services or any of the drawings or documents of CONSULTANT at any reasonable time. The documents obtained or generated under this Agreement shall be maintained by CONSULTANT and made available to TBRPC upon request by TBRPC at all times during the term of this Agreement and for three (3) years thereafter. In addition to the documents and reports set forth in Attachment "A," CONSULTANT shall, at no cost to TBRPC, deliver to TBRPC copies of all other Project documents or reports under CONSULTANT's possession or control that TBRPC may request from time to time.

12.0 SUBCONSULTANTS. CONSULTANT shall not sublet, assign, or transfer this Agreement or any Services without the prior written consent of TBRPC, which consent may be withheld in TBRPC's sole discretion. CONSULTANT shall be solely responsible for the employment, direction, supervision, compensation and control of any and all Subconsultants. CONSULTANT shall cause all Subconsultants to abide by the terms and conditions of this Agreement and all Laws. All agreements between CONSULTANT and Subconsultants shall be in writing, with a copy of such agreements to be provided to TBRPC upon its request for same.

13.0 INDEMNIFICATION. In consideration of the parties entering into this Agreement, the CONSULTANT shall indemnify, hold harmless and defend TBRPC, its officers and

employees, from and against all liabilities, damages, losses and costs, whether direct, indirect, or consequential, including but not limited to bodily injury, sickness, disease or death, personal injury, or injury to or destruction of real or tangible property, including loss of use, to the extent such liabilities, damages, losses and costs arise out of or are related to or in any way connected with or resulting from CONSULTANT's or any of the Subconsultants or any other person or organization employed by the CONSULTANT, negligent or reckless acts, errors or omissions or intentional wrongful misconduct in the performance of the Services. This indemnity shall include, but not be limited to, reasonable attorneys' fees, costs, and the charges of experts, legal assistants, and other professionals incurred in defending any action in a court of law, an arbitration, or other tribunal and any appeal from a decision adverse to TBRPC. However, CONSULTANT shall not be liable under this section for any claim, loss, damage, charge or expense caused by an act, error or omission of TBRPC, its agents and employees.

14.0 CONSULTANT'S INSURANCE-GENERAL REQUIREMENTS.

- 14.1 The types of insurance CONSULTANT shall purchase and maintain shall include the specific coverage set forth in Article 15.0 and be written for the limits of \$1,000,000 for all insurance coverage, including professional liability coverage. All said limits shall be per occurrence and in the aggregate combined single limit for all liability, except professional liability coverage which shall be on a claims made basis, with following forms excess or umbrella insurance making up the difference between the policy limits of underlying policies and the total amount of coverage required.
- 14.2 CONSULTANT shall not commence or continue to perform any Services unless CONSULTANT has in full force and effect all required insurance, and until CONSULTANT has delivered to TBRPC all insurance certificates required hereunder evidencing the specific insurance coverage required, nor shall any payment for Services performed become due and payable until CONSULTANT has delivered all such certificates to TBRPC. CONSULTANT shall not permit any Subconsultant to perform any portion of the Services unless such Subconsultant has complied with the insurance requirements, including the workers' compensation and general liability insurance requirements, contained herein.
- 14.3 Insurance coverage shall be placed with insurers or self-insurance funds, satisfactory to TBRPC, licensed to do business in the State of Florida and with a resident agent designated for the service of process. All insurers shall have an "A" policyholder's rating and a financial rating of at least Class IX in accordance with the most current Best's rating.
- 14.4 As evidence of the insurance coverages required by this Agreement, CONSULTANT shall provide TBRPC certificates of insurance evidencing the specific policies issued, the limits of coverage afforded, and the specific endorsement provided.
- 14.5 All the policies of insurance so required of CONSULTANT, except professional liability insurance, shall be endorsed to include as additional insureds: TBRPC, its directors, officers, employees, representatives, agents, and volunteers. If the additional

insureds have other insurance which might be applicable to any loss, the insurance required of CONSULTANT shall be considered primary, and all other insurance shall be considered excess.

- 14.6 Deductible amounts shall be subject to approval by TBRPC, which approval shall not be unreasonably withheld. CONSULTANT is responsible for the amount of any deductibles.
- 14.7 Approval of the insurance by TBRPC shall not relieve or decrease the liability of CONSULTANT hereunder. CONSULTANT acknowledges and agrees that TBRPC does not in any way represent that the insurance (or the limits of insurance) specified in this Article is sufficient or adequate to protect CONSULTANT's interests or liabilities, but are merely minimums.
- 14.8 All insurance shall be maintained in full force and effect throughout the entire term of this Agreement. Should any coverage approach expiration during the period in which it is to remain in full force and effect, it shall be renewed by CONSULTANT prior to its expiration, and a certificate of insurance again filed with TBRPC at least fourteen (14) days prior to coverage renewal.
- 14.9 Professional liability insurance shall continue in force until the end of one (1) calendar year following the calendar year in which the completion of the Project is estimated to occur pursuant to the Project Schedule. The professional liability insurance policy shall be endorsed to provide for renewals through said one (1) calendar year, or if the current policy is not renewed, to provide for an extended reporting period on the existing policy through said one (1) calendar year.
- 14.10 All policies, except for professional liability, shall contain provisions to the effect that in the event of payment of any loss or damage the insurer will have no rights of subrogation against TBRPC, its consultants, directors, officers, employees, representative or agents. Nothing contained in these insurance requirements is to be construed as limiting the liability of CONSULTANT or CONSULTANT's insurance carriers. Further, CONSULTANT hereby waives its right of recovery against TBRPC with respect to any matter covered by any insurance maintained by CONSULTANT.

15.0 LIABILITY AND WORKERS' COMPENSATION INSURANCE.

- 15.1 CONSULTANT shall purchase and maintain such commercial (occurrence form) or comprehensive general liability (occurrence form), professional liability, and other appropriate insurance, with respect to the Services required hereunder, that will provide protection from the types of claims set forth below which may arise out of or result from CONSULTANT's performance and furnishing of the Services, whether it is to be performed by CONSULTANT or the Subconsultants:

- 15.1.1 Claims for employer's liability, including those arising under Title VII, Florida Civil Rights Act;

- 15.1.2 Claims for damages because of bodily injury, sickness or disease, or death to any person other than CONSULTANT's employee;
 - 15.1.3 Claims for damages insured by personal injury liability coverage which are sustained by any person as a result of a negligent or wrongful act or omission of CONSULTANT or any person employed by or subcontracted to CONSULTANT;
 - 15.1.4 Claims for damages because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom;
 - 15.1.5 Claims for damages because of bodily injury or death of any person, or property damage arising out of the TBRPC ownership, maintenance, operation, use or loading and unloading of any owned, hired or non-owned motor vehicle used in connection with the Services, including employee non-TBRPC ownership use; and
 - 15.1.6 Claims for damages because of bodily injury or death of any person or property damage arising out of the TBRPC ownership, maintenance, operation, use or loading and unloading of any owned, hired or non-owned aircraft and watercraft used in connection with the Services, including employee non-TBRPC ownership use.
- 15.2 The commercial (occurrence form) or comprehensive general liability (occurrence form) insurance shall include contractual liability insurance applicable to all of CONSULTANT's obligations under this Agreement that are covered by such insurance.
- 15.3 CONSULTANT shall require all Subconsultants to procure and maintain, until the completion of that party's Services, insurance of the types and in the coverage amounts required to be carried by CONSULTANT in this Agreement unless TBRPC agrees in writing, in advance of CONSULTANT's employment of any such Subconsultant, to other types of coverage and/or lower coverage amounts. Provided however, that professional liability insurance shall not be required under this Agreement for Subconsultants, unless such party is a licensed professional. The preceding sentence does not preclude CONSULTANT from requiring such insurance. CONSULTANT shall be responsible for ensuring that all Subconsultants comply with all of the insurance requirements contained herein relative to each such party.
- 16.0 STANDARD OF PERFORMANCE. CONSULTANT shall perform and complete the Services in a timely manner and in accordance with the standard of care, skill, and diligence customarily provided by professionals with special expertise in the type of Services to be provided hereunder, and in accordance with sound professional principles and practices. CONSULTANT acknowledges that it has represented to TBRPC that CONSULTANT has special expertise in the type of services to be rendered hereunder and that such representation was a material inducement to TBRPC to enter into this Agreement with CONSULTANT.

17.0 PROJECT DOCUMENTS AND DATA.

- 17.1 One (1) copy of all technical data and working papers regarding the Services, whether existing in the office of TBRPC or in the office of CONSULTANT, shall be made available to the other party to this Agreement without expense to such other party. Additional copies shall be made available at the expense of the requesting party.
- 17.2 All plans, specifications, maps, evaluations, reports, technical data, and computer application code, other than working papers prepared or obtained under this Agreement, are the property of TBRPC without restriction or limitation of use, and shall be made available, upon request, to TBRPC at any reasonable time. CONSULTANT, at its own expense, may retain copies thereof for its files and internal use. Any use by TBRPC of such materials obtained under this Agreement for any other Project or use of incomplete materials obtained from CONSULTANT by TBRPC shall be made at the risk of TBRPC. However, this does not constitute a disclaimer of the professional liability of CONSULTANT with respect to the original Services as used for the Project.
- 17.3 CONSULTANT shall make no statements, press releases or public releases concerning this Agreement or its subject matter or otherwise disclose or permit to be disclosed any of the data or any other information obtained or furnished in compliance with this Agreement, except at meetings where representatives of TBRPC are present, without TBRPC's prior written consent. CONSULTANT shall not publish, copyright, or patent any of the data furnished or developed with respect to the Project without first obtaining TBRPC's written consent, as all such rights are the property of TBRPC.

18.0 RECORD RETENTION AND AUDIT RIGHTS. CONSULTANT shall keep all books, records, files, plans, drawings and other documentation, including all electronically stored items, which concern or relate to the Services hereunder (collectively referred to herein as "Records") for a minimum of three (3) years from the date of expiration or termination of this Agreement or as otherwise required by Law, which ever date is later. TBRPC, or any duly authorized agents or representatives of TBRPC, shall have the right to audit, inspect and copy all or such Records as often as they deem necessary during any such period of time. This right to audit, inspect and copy the Records shall include all of the Records of Subconsultants.

19.0 MISCELLANEOUS PROVISIONS.

- 19.1 CONSULTANT is retained by TBRPC only for the purposes and to the extent set forth in this Agreement, and its relationship with TBRPC shall, during the term of this Agreement, be that of an independent contractor. CONSULTANT shall have the discretion, subject to the requirement that it perform the Services competently and professionally in accordance with the highest professional standards and otherwise comply with the terms of this Agreement, to select the detail, method and means of performing the Services and shall have no obligation to work any particular schedule. Provided, however, in no event shall TBRPC be obligated to pay CONSULTANT any overtime or other premium pay compensation unless such overtime or premium

Micheal Beha, Master Exercise Practitioner, CIS
Erin Gillespie, Partner, Madison Street Strategies
Grey Dodge, Partner, Madison Street Strategies
Adam Braun, Partner & Managing Director, Frame
Gabe Cox, Motion Graphics Designer, Frame
Peter LeVake, Production Manager, Frame
Bryan Zhang, Director & Editor, Frame
Patrick Gines, Partner & Creative Director, Frame
Amy Godsey, Consulting Meteorologist

- 19.8 If at any time during the term of this Agreement TBRPC notifies CONSULTANT in writing that any of CONSULTANT's employees or the employees of any Subconsultant are objectionable to TBRPC, CONSULTANT shall remove or have the Subconsultant remove the objectionable employee from the Project and not re-employ the objectionable employee on any portion of the Services.
- 19.9 This Agreement shall be effective as of the last date upon which all of the parties hereto have executed this Agreement, as demonstrated by the date under the signatures on the signature page.
- 19.10 Time is of the essence of this Agreement and each of its provisions.
- 19.11 In the event of a conflict between this Agreement and Exhibits "A", "B", or "C" attached hereto, this Agreement shall control.
- 19.12 CONSULTANT represents that it is in compliance with Subsections 287.133(2) and (3), Florida Statutes, which provide that 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 Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
- 19.13 CONSULTANT represents that it is in compliance with Subsection 287.134(2)(a), Florida Statutes, which provides that an entity or affiliate who has been placed on the discriminatory vendor list 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 WITNESS WHEREOF, the parties hereto have caused these presents to be executed by their duly qualified representatives on the dates set forth below.

WITNESSES:

[CONSULTANT]

Signature

Signature

Print Name

Title

Signature

Date

Print Name

(SEAL)

ATTEST:

TAMPA BAY REGIONAL PLANNING COUNCIL

Sean T. Sullivan, Executive Director

By: _____
Ronald E. Kitchen Jr., Chairman

Date: _____

(SEAL)

APPROVED AS TO FORM:

Donald D. Conn, General Counsel