

Clay County Agreement/Contract No. 2020/2021-_____

2021-2022 MEDIATION-ARBITRATION PROGRAM COORDINATOR AGREEMENT

This 2021-2022 Mediation-Arbitration Program Coordinator Agreement (“Agreement”) is made and entered into this _____ day of September, 2021, by and between Clay County, a political subdivision of the State of Florida (the “County”), and Shirley Haag, an individual (the “Coordinator”), for Mediation-Arbitration Program services to be provided to the County for the Clay County Court, Fourth Judicial Circuit of Florida (the “Court”).

Recitals

WHEREAS, by ordinance codified in Sec. 2-1, Clay County Code, the County’s Board of County Commissioners has imposed the \$65 court cost authorized under Section 939.185, Florida Statutes (“\$65 Funds”); and

WHEREAS, as provided under Section 939.185(1), Florida Statutes, twenty-five percent of the \$65 Funds collected shall be allocated to fund innovations, as determined by the chief judge of the circuit, to supplement state funding for the elements of the state courts system identified in Section 29.004, Florida Statutes (“Innovations Allocation”); and

WHEREAS, the elements of the state courts system identified in Section 29.004, Florida Statutes, include, under subsection (11) thereof, mediation and arbitration programs to assist litigants in settling cases prior to adjudication on the merits by the court (“Mediation Program”); and

WHEREAS, the Chief Judge of the Court has requested that the County fund services for a mediation coordinator to support the Mediation Program in the County from the proceeds of the Innovations Allocation; and

WHEREAS, the County intends to provide funding for a coordinator to support the Mediation Program from the proceeds of the Innovations Allocation as requested by the Chief Judge for the County’s Fiscal Year commencing October 1, 2021, and ending midnight on September 30, 2022 (the “Service Period”); and

WHEREAS, the County wishes to engage the Coordinator for the Service Period and the Coordinator agrees to the engagement under the terms of this Agreement.

NOW THEREFORE, in consideration of the foregoing Recitals, the mutual covenants and promises set forth herein, and for other good and valuable consideration, the receipt of which is hereby acknowledged and all objections to the sufficiency and adequacy of which are hereby waived, the parties agree as follows:

1. Scope of Services. During the Service Period, the Coordinator shall perform the following services (“Services”):

- A. The Coordinator will coordinate and administer Court Mediation Programs in connection with Clay County cases.
- B. The Coordinator will schedule and manage continuing Mediation Programs, serve as liaison/information resource, and review files referred to mediation.
- C. The Coordinator will maintain accurate records of mediated cases, files reviewed, and mediation outcomes.
- D. The Coordinator will respond to inquiries from the judiciary, court staff, attorneys, and the public regarding Mediation Programs.
- E. The Coordinator will provide assistance with administrative tasks, answering telephone calls, e-mails and other correspondence directed to Court Mediation services.
- F. The Coordinator will gather information/data to support periodic and special reports, documenting activities such as statistical reports for the area of responsibility.
- G. The Coordinator will provide these services exclusively for the benefit of the Clay County Court in and for the Fourth Judicial Circuit under the coordination and administration of Magistrate Dianne Misiak, Administrative Magistrate, or her successor or designee, or as designated by the Trial Court Administrator, Fourth Judicial Circuit, Florida.
- H. The Coordinator will be under the general supervision of Honorable Don H. Lester, in his capacity as Administrative Judge of the Circuit and County Courts of Clay County, Florida, or his successor as Administrative Judge.

2. Invoicing and Payments.

- A. The maximum obligation on the part of the County to pay the Coordinator under this Agreement shall never exceed the budgeted funds during the fiscal year of the County within which the Service Period occurs. For the 2021-2022 fiscal year, \$17,200.00 has been budgeted and shall not be exceeded.
- B. For Services provided by the Coordinator in accordance with paragraph 1 during the Service Period, the County will pay the Coordinator \$17.00 per hour not to exceed forty (40) hours per week, and in no event shall the total payment for Services provided by the Coordinator during the Service Period exceed the amount in 2 A. The Coordinator will submit a written Invoice no more than once every calendar month, in time-sheet format, indicating the dates and times of

Service. Such Invoices will be submitted to the Honorable Don H. Lester for his signed authorization, and then forwarded to the County for payment of services provided under this Agreement. In no event shall the Coordinator receive any payment for any Services provided by the Coordinator in accordance with paragraph 1 outside of the Service Period. The County shall pay Coordinator in accordance with the Local Government Prompt Pay Act of Chapter 218, Florida Statutes.

- C. The Coordinator will not be reimbursed for mileage or any other expense associated with providing the Services.
- D. In the event that sufficient budgeted funds are not available, the County shall promptly notify the Coordinator and the Agreement shall terminate without penalty or expense to the County or to the Court.

3. Term of Agreement; Termination.

- A. The effective date of this Agreement is October 1, 2021, and this Agreement shall terminate at midnight on September 30, 2022.
- B. The County may terminate the Agreement without cause by providing written notice to the Coordinator thirty (30) days prior to termination. Upon termination, the County's obligation is to pay that portion of the Agreement already performed by the Coordinator at the time of termination, but not yet paid by the County.
- C. If, in the opinion of the Administrative Judge, the Coordinator, for any reason, has failed to fulfill the Coordinator's obligations under this Agreement in a timely manner, or if the Coordinator violates any provision of this Agreement, or if, in the sole discretion of the Administrative Judge, the Coordinator's work product is not acceptable, or if the Coordinator's Services are not required due to cancellation of the mediation program, the County may terminate this Agreement effective immediately upon written notice to the Coordinator served by certified U.S. mail, which notice shall be deemed effective upon being deposited in the mail, and the County shall have no obligation to pay the Coordinator for any Services not performed prior to that date. The County shall also provide a copy of such notice to the Administrative Judge.

4. Indemnification. The Coordinator shall be liable, agrees to be liable for, and shall indemnify, defend and hold the County, the Court, the Florida Supreme Court, the Florida State Courts System, and each of their principals, officers and employees harmless from all claims, suits, judgments and damages including court costs and attorney's fees arising out of intentional acts, negligence or omissions by the Coordinator in the course of the operations of and performance pursuant to this Agreement.

5. Scrutinized Companies Certification: In compliance with Section 287.135(5), Florida Statutes, the undersigned hereby certifies that the Contractor is not participating in a boycott of

Israel as defined in Section 287.135(1), Florida Statutes; is not on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List as referred to in Section 287.135(2), Florida Statutes; and does not have business operations in Cuba or Syria as defined in Section 287.135(1), Florida Statutes. In accordance with Section 287.135(3), Florida Statutes, the County shall have the option of terminating this Agreement if the Contractor is found to have submitted a false certification as provided under Section 287.135(5), Florida Statutes, or been placed on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or been engaged in business operations in Cuba or Syria, or to have been placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel as defined in Section 287.135(1), Florida Statutes.

6. Miscellaneous Provisions.

- (a) Governing Law and Venue. This Agreement shall be governed, construed and enforced under and pursuant to the laws and rules of the State of Florida, and the United States of America. Unless the parties otherwise agree, any action to interpret and/or enforce this Agreement shall be brought and maintained in the Fourth Judicial Circuit, in and for Clay County, Florida.
- (b) Severability. The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and, notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held to be illegal or void renders the balance of the Agreement impossible to perform. No waiver by either party of any term or condition of this Agreement will be deemed or construed as a waiver of any other term or condition, nor shall a waiver of any breach be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different paragraph, subparagraph, clause, phrase, or other provisions of this Agreement.
- (c) Construction. This Agreement sets forth the entire Agreement between the parties with respect to the subject matter hereof, and no purported amendment or modification of this Agreement shall be binding upon either party unless the same has been reduced to writing and signed by both parties. The parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who prepared this Agreement. The general maxim of interpretation of contracts (that a contract shall be construed against the drafter) shall not apply to the interpretation of this Agreement.
- (d) Independent Coordinator. This Agreement is for personal services only. The parties declare and specifically intend that the Coordinator is an independent Coordinator and not an agent or employee of the County, and is not entitled to

receive any benefits available to County employees, or to any coverage under the County's workers compensation or unemployment insurance.

- (e) Binding Effect. This Agreement shall be binding upon, and shall inure to the benefit of, the Coordinator, the County, and their respective successors and permitted assigns.
- (f) Records Retention and Auditing. The Coordinator shall keep all records relating to the Coordinator's duties under this Agreement in such a way as to permit their inspection pursuant to 2.420, Florida Rules of Judicial Administration. Violation of this provision will be grounds for immediate termination of this Agreement
- (g) Attorney's Fees. In the event either party shall retain an attorney to litigate on its behalf against the other party regarding the enforcement or interpretation of this Agreement or regarding the rights, remedies, obligations or liabilities of the parties arising under this Agreement, the party prevailing on the majority of its claims, or which successfully defends against a majority of the other party's claims, shall be entitled to an award of reasonable attorney's fees and costs against the other party, including fees and costs incurred from the date of referral of the dispute to the prevailing party's attorney through the conclusion of litigation, or incurred in bankruptcy or on appeal. Nothing contained herein is intended to serve as a waiver of sovereign immunity and extend the County's liability beyond the limits established in Section 768.28, Florida Statutes. The provisions of this paragraph shall survive any termination of this Agreement.
- (h) Insurance and Taxes. The Coordinator shall be solely responsible for procuring appropriate insurance as well as filing income taxes, FICA, and any other withholdings from the Coordinator's own compensation, and the Coordinator shall comply with all federal, state, and local tax laws. If any of the Coordinator's obligations under this Agreement are performed by a subcontractor, then the Coordinator shall incorporate the requirement of this provision into the subcontract.
- (i) Remedies. The rights and remedies set forth in this Agreement are not exclusive and are in addition to any other rights and remedies provided by law or in equity.
- (j) Acts of God. Performance of this Agreement by either party is subject to acts of God, disaster, strikes, civil disorders, curtailment of transportation facilities, or other emergencies making it impossible or illegal to provide Services under this Agreement.
- (k) Non-assignability; Subcontracting. All Services shall be performed exclusively by the Coordinator and shall not be assigned to another individual without prior written permission of the County and the Administrative Judge. The Coordinator may not subcontract any Services to be provided pursuant to this Agreement.

Neither this Agreement nor any of the Coordinator's rights or obligations may be assigned by the Coordinator unless agreed to by the parties in writing.

- (l) Integration. This Agreement constitutes the entire agreement between the parties and supersedes all prior written or oral understandings between the parties. This Agreement may only be amended, supplemented, or modified by a written instrument signed by each of the parties.
- (m) Public Records. To the extent applicable, the Coordinator shall comply with Chapter 119, Florida Statutes (Public Records); Section 286.011, Florida Statutes (Public Meetings); and Rule 2.430, Rules of Judicial Administration. Violation of any part of this subparagraph by Coordinator will be grounds for termination of this Agreement by the County in the manner provided under subparagraph (B) of paragraph 3.

IF THE COORDINATOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE COORDINATOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 278-4754, publicrecords@claycountygov.com, POST OFFICE BOX 1366, GREEN COVE SPRINGS, FLORIDA 32043.

- (n) Waiver of Breach. No waiver by the County of any breach of any provision of this Agreement by the Coordinator shall constitute a waiver of any other breach of either the same provision or of any other provision by the Coordinator. The failure of the County to enforce at any time, or from time to time, any provision of this Agreement shall not be construed as a waiver thereof or any other provisions.
- (o) The Coordinator acknowledges 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 on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a Coordinator, 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 from the date of being placed on the convicted vendor list.

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IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on behalf of each as of the date and year first above-written.

**Clay County, a political subdivision of the
State of Florida**

By: _____
Mike Cella
Its Chairman

ATTEST:

Tara S. Green
Clay County Clerk of Court and Comptroller
Ex Officio Clerk to the Board

Coordinator

By: _____
Shirley Haag

In his official capacity as Administrative Judge of the Circuit and County Courts of Clay County, Florida, the undersigned does hereby approve this Agreement in Green Cove Springs, Clay County, Florida.

Don H. Lester
Administrative Judge

