

MASTER CONTRACTOR/SERVICES AGREEMENT

THIS MASTER CONTRACTOR/SERVICES AGREEMENT (hereafter the “Agreement”) is made by and between the City of Delray Beach, a Florida municipal corporation (hereinafter referred to as “City”), whose address is 100 NW 1st Avenue, Delray Beach, FL 33444 and Kronos Incorporated, a Massachusetts Corporation (herein after referred to as “Contractor”), whose address is 900 Chelmsford Street, Lowell, MA 01851, this _____ day of _____, 2022, to make purchases pursuant to the terms and conditions of the U.S. Communities Contract No. 18229 dated March 18, 2019, as amended (hereafter the “Contract No. 18220”).

WHEREAS, the City desires to purchase workforce management systems and related products, services, and solutions; and

WHEREAS, the City desires to procure these goods and services from Contractor, utilizing existing contract prices provided to the Cobb County Board of Commissioners (Cobb County), on behalf of the U.S. Communities Government Purchasing Alliance, now known as Omnia Partners, pursuant to its Solicitation No. 18-6390; and

WHEREAS, in accordance with Solicitation No. 18-6390, Cobb County entered into Contract No. 18220, a three (3) year Agreement with Contractor for services effective March 18, 2019, through March 17, 2022, with the option to renew for three (3) additional one (1) year terms; and

WHEREAS, on July 22, 2020, Cobb County and Contractor entered into Amendment No. 1 to Contract No. 18220, modifying the services available under the Agreement; and

WHEREAS, on August 26, 2021, Cobb County and Contractor executed Amendment No. 2 to Contract No. 18220, modifying the terms and conditions and pricing for certain subscription-based services; and

WHEREAS, on December 15, 2021, Cobb County and Contractor executed Amendment No. 3 to Contract No. 18220, exercising the first of three one-year renewals, extending the term of the Agreement to March 17, 2023; and

WHEREAS, the Contractor agrees to extend the terms, conditions, and pricing of Contract No. 18220 to the City as a Participating Entity, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises contained herein and other good and valuable consideration of which the parties hereto acknowledge, the parties agree as follows:

1. The above recitals are true and correct and are incorporated herein by reference.
2. The Contractor shall provide workforce management systems and related products, services, and solutions to the City, in accordance with and pursuant to the same terms, conditions, and pricing of Contract No. 18220 procured by the Cobb County Board of Commissioners, on behalf of the U.S. Communities Government Purchasing Alliance, now known as Omnia Partners.

3. The City shall pay the Contractor in accordance with the pricing schedule detailed in the Order Form attached hereto as Exhibit "A" and incorporated herein.

4. This Agreement shall terminate on March 17, 2023, unless Contract No. 18220 is renewed or otherwise extended by the Cobb County Board of Commissioners. If Contract No. 18220 is renewed or otherwise extended, this Agreement shall automatically renew or extend for the same term.

5. The City reserves the right to terminate this Agreement pursuant to the terms of Contract No. 18220, with or without cause upon providing sufficient written notice to Contractor. All Fees will be paid by the City for amounts owed through the effective date of termination. Any Fees paid by the City for the Service not rendered prior to the effective date of termination will be credited against the City's account, with any remaining amounts refunded to the City within thirty (30) days of the effective date of termination.

6. The Contractor shall indemnify and hold harmless the City and its officers, employees, agents, and instrumentalities pursuant to the terms of Contract No. 18220. The Contractor expressly understands and agrees that any insurance protection required by this Agreement or otherwise provided by the Contractor shall in no way limit the responsibility to indemnify, keep and save harmless, and defend the City or its officers, employees, agents, and instrumentalities as herein provided the obligations of this section shall survive the term of this Agreement.

7. Whenever either Party desires to give notice to the other, such notice must be in writing, sent by certified United States Mail, postage prepaid, return receipt requested, or sent by commercial express carrier with acknowledgement of delivery, or by hand delivery with a request for a written receipt of acknowledgment of delivery, addressed to the party for whom it is intended at the place last specified. The place for giving notice shall remain the same as set forth herein until changed in writing in the manner provided in this section. For the present, the Parties designate the following:

For CITY:

City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444
Attn: City Manager

For CONTRACTOR:

Kronos Incorporated
900 Chelmsford Street
Lowell, MA 01851

8. Neither this Agreement nor any right or interest herein shall be assigned, transferred, or encumbered without the written consent of the other Party, which shall not be unreasonably withheld.

9. This Agreement shall be construed in accordance with the City of Delray Beach's Code of Ordinances and the laws of the State of Florida. Any dispute relating to this Agreement shall only be filed in a court of competent jurisdiction in Palm Beach County, Florida, and each of the parties to this Agreement submits itself to the jurisdiction of such court. It is hereby understood and agreed that in the event any lawsuit in the judicial system, federal or state, is brought to enforce compliance with this contract or interpret same, or if any administrative proceeding is brought for the same purposes, each party shall pay their own attorney's fees and costs, including appellate fees and costs.

10. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT CITY OF DELRAY BEACH, CITY CLERK, 100 N.W. 1ST AVE., DELRAY BEACH FLORIDA. THE CITY CLERK'S OFFICE MAY BE CONTACTED BY PHONE AT 561-243-7050 OR VIA EMAIL AT CITYCLERK@MYDELRAYBEACH.COM. Contractor shall comply with public records laws, specifically to:

- i. Keep and maintain public records required by the City to perform the service.
- ii. Upon request from the City's custodian of public records, provide the City 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 Florida Statute 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 City.
- iv. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of the Contractor or keep and maintain public records required by the City to perform the service. If the Contractor transfers all public records to the City 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 City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.
- v. If the Contractor does not comply with this section, the City shall enforce the contract provisions in accordance with applicable Florida state law and with the contract and may unilaterally cancel this contract in accordance with state law.

11. Pursuant to Palm Beach County Code, Section 2-421 - 2-440, as amended, Palm Beach County's Office of Inspector General is authorized to review past, present and proposed City contracts, transactions, accounts, and records relating to invoicing and billing under this Agreement. The

Inspector General's authority includes, but is not limited to, the power to audit, investigate, monitor, and inspect the activities of entities contracting with the City, or anyone acting on their behalf, in order to ensure compliance with contract requirements and to detect corruption and fraud. Failure to cooperate with the Inspector General or interfering with or impeding any investigation shall be a violation of Palm Beach County Code, Section 2-421 – 2-440, and punished pursuant to Section 125.69, F.S., in the same manner as a second degree misdemeanor. Contractor understands and agrees that in addition to all other remedies and consequences provided by law, the failure of Contractor or its subcontractors and lower tier subcontractors to fully cooperate with the Inspector General when requested may be deemed by the City to be a material breach of this Agreement justifying its termination. For the avoidance of doubt, Contractor's use of third parties to supply software, services, or infrastructure to run its SaaS solution in general and not solely for providing services under this Agreement is not a subcontracting arrangement.

12. The continuation of this Agreement beyond the end of any fiscal year shall be subject to both the appropriation and the availability of funds in accordance with Florida law. The City may terminate the Service in the event of a reduction in appropriations to any fund(s) from which Contractor is to be paid for Service ordered under this Agreement but not yet delivered. The City will provide a thirty (30) day prior written notice in the event of such termination to Contractor and the City agrees to pay for the products delivered and the services performed prior to the receipt of such notice by Contractor.

13. By entering into this Agreement Contractor acknowledges its obligation to comply with the applicable provisions of Section 448.095, Fla. Stat., "Employment Eligibility." Contractor affirms and represents it is registered with the E-Verify system, utilizing same, and will continue to utilize same as required by applicable law. Compliance with this section includes, but is not limited to, utilization of the E-Verify System to verify the work authorization status of all newly hired employees and requiring all subcontractors providing services under this Agreement to provide an affidavit attesting that the subcontractor does not employ, contract with, or subcontract with, an unauthorized alien. Failure to comply with this section will result in the termination of this Agreement, or if your subcontractor knowingly violates the statute, the subcontract must be terminated immediately. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If terminated for a violation of the statute by Contractor, the Contractor may be prohibited from conducting future business with the City or awarded a solicitation or contract for a period of 1 year after the date of termination. All costs incurred to initiate and sustain the aforementioned programs shall be the responsibility of the Contractor. For the avoidance of doubt, Contractor's use of third parties to supply software, services, or infrastructure to run its SaaS solution in general and not solely for providing services under this Agreement is not a subcontracting arrangement.

14. The documents listed below are a part of this Agreement and are hereby incorporated by reference. In the event of inconsistency between the documents, unless otherwise provided herein, the terms of the following documents will govern in the following order of precedence:

- a. Terms and conditions as contained in this Agreement.
- b. Terms and Conditions of Contract No. 18220.

- c. Contractor's response to Solicitation No. 18-6390 and any subsequent information submitted by Contractor during the evaluation.

IN WITNESS WHEREOF, the City and the Contractor executed this Agreement as of the day and year first above written.

ATTEST

CITY OF DELRAY BEACH

Katerri Johnson, City Clerk

By: _____
Shelly Petrolia, Mayor

Approved as to form and legal sufficiency:

Lynn Gelin, City Attorney

KRONOS INCORPORATED

By: _____

Print Name: _____

Title: _____

(SEAL)

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this ____ day of _____, 20__, by _____ (name of person), as _____ (type of authority) for _____ (name of party on behalf of whom instrument was executed).

Personally known ____ OR Produced Identification
Type of Identification Produced _____

Notary Public – State of _____