

20180519 11:00 AM

CONTRACT APPROVAL FORM

(Contract Management Use only)

CONTRACT TRACKING NO.
CM2817

CONTRACTOR INFORMATION

Name: TischlerBise, Inc.

Address: 4701 Sangamore Road Bathesda MD 20816
City State Zip

Contractor's Administrator Name: Carson Bise Title: President

Tel#: (301) 320-6900 Fax: _____ Email: carson@tischlerbise.com

CONTRACT INFORMATION

Contract Name: Professional Service Agreement Contract Value: Total NTE \$49,999.00

Brief Description: Professional Service Agreement for Annual calibration of Nassau County Fiscal Impact Model and On-Going (As Needed) Support

Contract Dates : From: 2/26/20 to: 2/25/25 Status: New Renew Amend# WA/Task Order

How Procured: Sole Source Single Source ITB RFP RFQ Coop. Other Professional Services

If Processing an Amendment:

Contract #: _____ Increase Amount of Existing Contract: _____

New Contract Dates: _____ to _____ TOTAL OR AMENDMENT AMOUNT: _____

APPROVALS PURSUANT TO NASSAU COUNTY PURCHASING POLICY, SECTION 6

1. [Signature] 2/21/20 Office of Management and Budget
Department Head Signature Date Submitting Department
2. [Signature] 2/21/20 0135513 - 531000
Contract Management Date Funding Source/Acct #
3. [Signature] 2/21/20
Office of Management & Budget Date
4. [Signature] 2/24/20
County Attorney (approved as to form only) Date

Comments: _____

COUNTY MANAGER - FINAL SIGNATURE APPROVAL

[Signature]
Michael Mullin

2/26/20
Date

RETURN ORIGINAL(S) TO CONTRACT MANAGEMENT FOR DISTRIBUTION AS FOLLOWS:

- Original: Clerk's Services; Contractor (original or certified copy)
- Copy: Department
Office of Management & Budget
Contract Management
Clerk Finance

**PROFESSIONAL SERVICE AGREEMENT
FOR NASSAU COUNTY, FLORIDA**

THIS AGREEMENT made and entered into this 26th day of February 2019, by and between the **Board of County Commissioners of Nassau County**, a political subdivision of the State of Florida, hereinafter referred to as "County", and **TischlerBise, Inc.** located at 4701 Sangamore Road, Suite S240, Bathesda, Maryland 20816, hereinafter referred to as "Consultant":

WHEREAS, the County desires to obtain professional services to provide an annual update/calibration to the Nassau County Fiscal Impact Model and for "as needed" services for professional and technical ongoing support related to the Nassau County Fiscal Impact Model; and

WHEREAS, said services are more fully described in the *Scope of Services*, Attachment "A", which is attached hereto and made a part hereof; and

WHEREAS, the Consultant desires to render certain professional services as described in the *Scope of Services*, and has the qualifications, experience, staff and resources to perform those services; and

NOW THEREFORE, in consideration of the mutual covenants and agreements hereinafter contained, the parties hereto agree as follows:

ARTICLE 1 - EMPLOYMENT OF CONSULTANT

The County hereby agrees to engage Consultant, and Consultant hereby agrees to perform the services set forth in the *Scope of Services*.

ARTICLE 2 - SCOPE OF SERVICES

2.1 Consultant shall provide professional services in accordance with the *Scope of Services* set forth in Attachment "A", attached hereto and incorporated by reference.

2.2 The services shall be performed on an annual basis and all "as needed" services performed per a scope of work determined by the Office of Management and Budget Director or her designee relative to County fiscal impact needs.

ARTICLE 3 - THE COUNTY'S RESPONSIBILITY

Except as provided in the *Scope of Services*, the County's responsibilities are to furnish required information, services, render approvals and decisions as necessary for the orderly progress of Consultant's services. The County hereby designates Office of Management and Budget (OMB) to act on the County's behalf with respect to the *Scope of Services*. The OMB Director, under the supervision of the County Manager shall have complete authority to transmit instructions, receive information, interpret and define County's policies and decisions with respect to materials, elements and systems pertinent to Consultant's services.

ARTICLE 4 - TERM OF AGREEMENT

The term of this Agreement shall be for five (5) years beginning on the date of its complete execution. The performance period of this Agreement may be extended upon mutual agreement between both parties. Any extension of performance period under this provision shall be in one (1) year increments. Total contract length and individual one (1) year extensions shall be in the County's best interest and sole discretion. Any Agreement or amendment to the Agreement shall be subject to fund availability and mutual written agreement between the County and Consultant.

ARTICLE 5 - COMPENSATION

5.1 Consultant shall be compensated per the rates established in the *Scope of Services*, with a total sum not to exceed \$49,999.00 for the contract period.

5.2 Consultant shall prepare and submit to the OMB Director, for approval, a monthly invoice for the services rendered under this Agreement. Invoices for services shall be paid within forty-five (45) days, in accordance with the Florida Prompt Payment Act. The County reserves the right to withhold payment to Consultant for failure to perform the work in accordance with the provisions of this Agreement, and the County shall promptly notify Consultant if any invoice or report is found to be unacceptable and will specify the reasons therefor.

ARTICLE 6 - STANDARD OF CARE

Consultant shall exercise the same degree of care, skill, and diligence in the performance of the Services as is ordinarily provided by a professional under similar circumstances and Consultant shall, at no additional cost to the County, re-perform services which fail to satisfy the foregoing standard of care.

ARTICLE 7 - DOCUMENTS

The documents which comprise this Agreement between the County and the Consultant are attached hereto and made a part hereof and consist of the following:

- 7.1** This Agreement;
- 7.2** The *Scope of Services* attached hereto Attachment "A";
- 7.3** Any work authorizations, written amendments, modifications or addenda to this Agreement.

ARTICLE 8 - EQUAL OPPORTUNITY EMPLOYMENT

In connection with the work to be performed under this Agreement, Consultant agrees to comply with the applicable provisions of State and Federal Equal Employment Opportunity statutes and regulations.

ARTICLE 9 - INDEMNIFICATION

Consultant shall indemnify and hold harmless the County and its officers and employees from liabilities, damages, losses, and costs, including but not limited to, reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant and other persons employed or utilized by the consultant, in the performance of the contract.

ARTICLE 10 - INDEPENDENT CONSULTANT

Consultant undertakes performance of the services as an independent Consultant under this Agreement and shall be responsible for the methods of performance. The County shall have no right to supervise the methods used, but the County shall have the right to observe such performance. Consultant shall work closely with the County in performing services under this Agreement.

ARTICLE 11 – EXTENT OF AGREEMENT

11.1 This Agreement represents the entire and integrated agreement between the County and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

11.2 This Agreement may only be amended, supplemented, modified, changed or canceled by a duly executed written instrument.

ARTICLE 12 - COMPLIANCE WITH LAWS

In performance of the services, Consultant will comply with applicable regulatory requirements including federal, state, and local laws, rules regulations, orders, codes, criteria and standards.

ARTICLE 13 - INSURANCE

The Consultant shall purchase and maintain such commercial (occurrence form) or comprehensive general liability, workers compensation, professional liability, and other insurance as is appropriate for the services being performed hereunder by Consultant, its employees or agents. The amounts and types of insurance shall conform to the requirements set forth in Exhibit "1".

ARTICLE 14 – ACCESS TO PREMISES

The County shall be responsible for providing access to all project sites (if required), and for providing project-specific information.

ARTICLE 15 - TERMINATION OF AGREEMENT

15.1 Termination for Convenience: This Agreement may be terminated by the County for convenience, upon thirty (30) days of written notice to Consultant. In such event, the Consultant shall be paid its compensation for services performed prior to the termination date. In the event that the Consultant abandons this Agreement or causes it to be terminated, Consultant is liable to the County for all loss pertaining to this termination.

15.2 Default by Consultant: In addition to all other remedies available to the County, the County may terminate this Agreement for cause should the Consultant neglect, fail to perform, or observe any of the terms, provisions, conditions, or requirements herein contained. Prior to termination the County shall provide written

notice of the specific conditions warranting default, and the County shall allow thirty (30) days for Consultant to cure.

ARTICLE 16 - NONDISCLOSURE OF PROPRIETARY INFORMATION

Consultant shall consider all information provided by County and all reports, studies, calculations, and other documentation resulting from the Consultant's performance of the Services to be proprietary unless such information is available from public sources. Consultant shall not publish or disclose proprietary information for any purpose other than the performance of the services without the prior written authorization of County or in response to legal process.

ARTICLE 17 - GOVERNING LAW AND VENUE

This Agreement shall be governed by the laws of the State of Florida. All legal action necessary to enforce the Agreement will be held in Nassau County.

ARTICLE 18 - MISCELLANEOUS

18.1 Non-waiver: A waiver by either County or Consultant of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

18.2 Severability: Any provision in this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction. The non-enforcement of any provision by either party shall not constitute a

waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.

18.3 PUBLIC RECORDS

The County is a public agency subject to Chapter 119, Florida Statutes. IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (904) 530-6250, DMOODY@NASSAUCOUNTYFL.COM, 96161 NASSAU PLACE, YULEE, FLORIDA 32097. Under this agreement, to the extent that the Consultant is providing services to the County, and pursuant to section 119.0701, Florida Statutes, the Consultant shall:

- a. Keep and maintain public records required by the public agency to perform the service.
- b. Upon request from the public agency's custodian of public records, provide the public agency 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 this chapter or as otherwise provided by law.
- c. 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 contract term and following completion of the agreement if the Consultant does not transfer the records to the public agency.
- d. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the Consultant or keep and maintain public records required by the public agency to perform the service. If the Consultant transfers all public records to the public agency upon completion of the agreement, the Consultant shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the Consultant keeps and maintains public records upon completion of the contract, the Consultant shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of

the public agency.

18.4 The provisions of this section shall not prevent the entire Agreement from being void should a provision, which is of the essence of the Agreement, be determined to be void.

ARTICLE 19 - SUCCESSORS AND ASSIGNS

The County and Consultant each binds itself and its director, officers, partners, successors, executors, administrators, assigns and legal representatives to the other party to this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives.

ARTICLE 20 - CONTINGENT FEES

The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift or any other consideration contingent upon or resulting from the award or making of this Agreement.

ARTICLE 21 - OWNERSHIP OF DOCUMENTS

Consultant shall be required to work in harmony with other consultants relative to providing information requested in a timely manner and in the specified form. All documents, records, disks, original drawings, or other information shall become the property of the County upon completion for its use and distribution as may be deemed appropriate by the County.

ARTICLE 22 - FUNDING

This agreement shall remain in full force and effect only as long as the expenditures provided for in the Agreement have been appropriated by the County Commission of the County of Nassau in the annual budget for each fiscal year of this Agreement, and is subject to termination based on lack of funding.

ARTICLE 23 - NOTICE

23.1 Whenever either party desires or is required under this Agreement to give notice to any other party, it must be given by written notice either delivered in person, sent by U.S. Certified Mail, U.S. Express Mail, air or ground courier services, or by messenger service, as follows:

COUNTY

Nassau County Contract Management
96135 Nassau Place, Suite 2
Yulee, Florida 32097
904-491-7377
ghagins@nassaucountyfl.com

With a copy to the County Attorney at the same address.

CONSULTANT:

Carson Bise
TischlerBise, Inc.
4701 Sangamore Road, Suite S240
Bethesda, MD 20816
(301) 320-6900
carson@tischlerbise.com

23.2 Notices shall be effective when received at the address specified above. Changes in the respective addresses to which such notice may be directed may be made from time to time by any party by written notice to the other party. Email and facsimile are acceptable notice effective when received, however, notices received (i.e.;

printed) after 5:00 p.m. or on weekends or holidays, will be deemed received on the next business day. The original of the notice must additionally be mailed as required herein.

23.3 Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of Consultant and County.

ARTICLE 24 - DISPUTE RESOLUTION

24.1 The County may utilize this section, at their discretion, as to disputes regarding contract interpretation. The County may send a written communication to the Consultant by email, overnight mail, UPS, FedEx, or certified mail. The written notification shall set forth the County's interpretation of the contract. A response shall be provided in the same manner prior to the initial meeting with the County Manager. This initial meeting shall take place no more than twenty (20) days from the written notification of the dispute addressed to the Consultant. The Consultant should have a representative, at the meeting that can render a decision on behalf of the Consultant.

24.2 If there is no satisfactory resolution as to the interpretation of the contract, the dispute may be submitted to mediation in accordance with mediation rules as established by the Florida Supreme Court. Mediators shall be chosen by the County and the cost of mediation shall be borne by the Consultant. Consultant shall not stop work during the pendency of mediation or dispute resolution.


ARTICLE 25 - DISCLOSURE OF LITIGATION, INVESTIGATIONS, ARBITRATION OR ADMINISTRATIVE DECISIONS

The Consultant, during the term of this Agreement, or any extension, has a continual duty to properly disclose to the County Procurement/Contract Manager, in writing, upon occurrence, all civil or criminal litigation, arbitration, mediation, or

administrative proceeding involving the Consultant. If the existence of the proceeding causes the County concerns that the Consultant's ability or willingness to perform this Agreement is jeopardized, the Contractor may be required to provide the County with reasonable written assurance to demonstrate they can perform the terms and conditions of the Agreement.

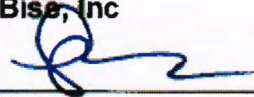
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

**Nassau County,
Board of County Commissioners**



Michael Mullin, County Manager
Its: Designee
Date: 2/26/20

TischlerBise, Inc



Carson Bise
Its: President
Date: 2/21/2020

ATTACHMENT "A"

Work Scope: Nassau County Maintenance Agreement

February 11, 2020

Nassau County, Florida, seeks to contract with TischlerBise to perform an update/calibration of the County's Fiscal Impact Model. TischlerBise developed the original model for the County using proprietary software called FISCALS. The model assists the County in assessing the fiscal impact of proposed development projects and rezonings in the County. Since the model is developed specifically to the County's budgetary and organizational structure, it is recommended that baseline budgetary, demographic, and development factor data be updated/calibrated annually when feasible.

Because TischlerBise created the FISCALS software application for the County and is the owner of the model and its proprietary information, the County seeks to contract with TischlerBise to update/calibrate the model and update the baseline data to reflect current budget and demographic information, as well as to ensure that all formulas and cells are working correctly. This annual update/calibration will occur in October of each year for a 5-year period.

STATEMENT OF WORK: ANNUAL UPDATE/CALIBRATION

Based on previous discussions with the County, TischlerBise provides the following scope of work for updates to the Nassau County Fiscal Impact Model.

- Update budget information for the County/School tax-supported funds for the latest adopted Fiscal Year.
- Update current demographic and related demand indicators (e.g., trip generation rates, student generation rates, etc.).

The cost for this annual update/calibration is \$6,700 annually for a 5-year period.

STATEMENT OF WORK: ONGOING SUPPORT

The County may want to hire TischlerBise to provide professional and technical support throughout the year related to review of specific development proposals, model operation or other similar work.

The cost for this ongoing support will be billed at an hourly rate of \$210.

EXHIBIT "1"

GENERAL INFORMATION AND MINIMUM INSURANCE REQUIREMENTS



COMMERCIAL GENERAL LIABILITY INSURANCE

The Contractor shall purchase and maintain at the Contractor's expense Commercial General Liability insurance coverage (ISO or comparable Occurrence Form) for the life of this Contract. Modified Occurrence or Claims Made forms are not acceptable.

The Limits of this insurance shall not be less than the following limits:

Each Occurrence Limit	\$500,000
Personal & Advertising Injury Limit	\$500,000
Products & Completed Operations Aggregate Limit	\$1,000,000
General Aggregate Limit (other than Products & Completed Operations) Applies Per Project	\$1,000,000

General liability coverage shall continue to apply to "bodily injury" and to "property damage" occurring after all work on the Site of the covered operations to be performed by or on behalf of the additional insureds has been completed and shall continue after that portion of "your work" out of which the injury or damage arises has been put to its intended use.

WORKERS' COMPENSATION AND EMPLOYER'S LIABILITY INSURANCE

The Contractor shall purchase and maintain at the Contractor's expense Workers' Compensation and Employer's Liability insurance coverage for the life of this Contract.

The Limits of this insurance shall not be less than the following limits:

<u>Part One</u> – Workers' Compensation Insurance – Unlimited Statutory Benefits as provided in the Florida Statutes and	
<u>Part Two</u> Employer's Liability Insurance	
Bodily Injury By Accident	\$100,000 Each Accident
Bodily Injury By Disease	\$500,000 Policy Limit
Bodily Injury By Disease	\$100,000 Each Employee

*If leased employees are used, policy must include an Alternate Employer's Endorsement

PROFESSIONAL LIABILITY (ERRORS & OMISSIONS)

This additional coverage will be required for all projects involving consultants, engineering services, architectural or design/build projects, independent testing firms and similar exposures.

The Consultant shall purchase and maintain at the Consultant's expense Professional Liability insurance coverage for the life of this Contract.

If the contract includes a requirement for Professional Liability or Errors and Omissions insurance, the minimum amount of such insurance shall be as follows:

Each Occurrence/Annual Aggregate	\$1,000,000
Project Specific	

Design Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement. If provided on a Claims Made Form, the coverages must respond to all claims reported within three years following the period for which coverage is required and which would have been covered had the coverage been on an occurrence basis.

Consultant shall require each of his SubConsultants to likewise purchase and maintain at their expense Commercial General Liability insurance, Workers' Compensation and Employer's Liability coverage, Automobile Liability insurance, Umbrella Liability Professional Liability, Environmental Liability, Builders Risk or Installation Floater (as applicable) insurance coverage meeting the same limit and requirements as the Consultants insurance.

Certificates of Insurance acceptable to Nassau County Board of County Commissioners for the Consultant/Vendor's insurance must be received within ten (10) days of Notification of Selection and at time of signing Agreement.

Certificates of Insurance and the insurance policies required for this Agreement shall contain an endorsement that coverage afforded under the policies will not be cancelled or allowed to expire until at least thirty (30) days prior written notice has been given to Nassau County Board of County Commissioners.

Certificates of Insurance and the insurance policies required for this Agreement will include a provision that policies, except Workers' Compensation and Professional Liability, are primary and noncontributory to any insurance maintained by the Consultant.

Nassau County Board of County Commissioners must be named as an Additional Insured and endorsed onto the Commercial General Liability (CGL), Auto Liability and Umbrella Liability policy (ies). A copy of the endorsement(s) must be supplied to Nassau County Board of County Commissioners ten (10) days following the execution of the agreement or prior to the first date of services, whichever comes first.

CGL policy Additional Insured Endorsement must include Ongoing and Completed Operations (Form CG2010 11 84 OR Form CG2010 04 13 and GC2037 04 13 edition or equivalent). Other Additional Insured forms might be acceptable but only if modified to delete the word "ongoing" and insert the sentence "Operations include ongoing and completed operations".

CGL policy shall not be endorsed with Exclusion - Damage to Work performed by SubConsultants on Your Behalf (CG2294 or CG2295)

CGL policy shall not be endorsed with Contractual Liability Limitation Endorsement (CG2139) or Amendment of Insured Contract Definition (CG 2426)

CGL policy shall not be endorsed with Exclusion - Damage to Premises Rented to you (CG 2145)

CGL policy shall include broad form contractual liability coverage for the Consultants covenants to and indemnification of the Authority under this Contract

Certificates of Insurance and the insurance policies required for this Agreement shall contain a provision under General Liability, Auto Liability and Workers' Compensation to include a Waiver of Subrogation clause in favor of Nassau County Board of County Commissioners.

All Certificates of Insurance shall be dated and shall show the name of the insured Consultant, the specific job by name and job number, the name of the insurer, the policy number assigned its effective date and its termination date and a list of any exclusionary endorsements.

All Insurers must be authorized to transact insurance business in the State of Florida as provided by Florida Statute 624.09(1) and the most recent Rating Classification/Financial Category of the insurer as published in the latest edition of "Best's Key Rating Guide" (Property-Casualty) must be at least A- or above.

All of the above referenced Insurance coverage is required to remain in force for the duration of this Agreement and for the duration of the warranty period. Accordingly, at the time of submission of final application for payment, Consultant shall submit an additional Certificate of Insurance evidencing continuation of such coverage.

If the Consultant fails to procure, maintain or pay for the required insurance, Nassau County Board of County Commissioners shall have the right (but not the obligation) to secure same in the name of and for the account of

Consultant, in which event, Consultant shall pay the cost thereof and shall furnish upon demand, all information that may be required to procure such insurance. Nassau County Board of County Commissioners shall have the right to back-charge Consultant for the cost of procuring such insurance. The failure of Nassau County Board of County Commissioners to demand certificates of insurance and endorsements evidencing the required insurance or to identify any deficiency in Consultants coverage based on the evidence of insurance provided by the Consultant shall not be construed as a waiver by Nassau County Board of County Commissioners of Consultant's obligation to procure, maintain and pay for required insurance.

The insurance requirements set forth herein shall in no way limit Consultants liability arising out of the work performed under the Agreement or related activities. The inclusions, coverage and limits set forth herein are minimum inclusion, coverage and limits. The required minimum policy limits set forth shall not be construed as a limitation of Consultant's right under any policy with higher limits, and no policy maintained by the Consultant shall be construed as limiting the type, quality or quantity of insurance coverage that Consultant should maintain. Consultant shall be responsible for determining appropriate inclusions, coverage and limits, which may be in excess of the minimum requirements set forth herein.

If the insurance of any Consultant or any subConsultant contains deductible(s), penalty(ies) or self-insured retention(s), the Consultant or SubConsultant whose insurance contains such provision(s) shall be solely responsible for payment of such deductible(s), penalty(ies) or self-insured retention(s).

The failure of Consultant to fully and strictly comply at all times with the insurance requirements set forth herein shall be deemed a material breach of the Agreement.