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**AGREEMENT FOR PROFESSIONAL SERVICES**

**BETWEEN**

**THE CITY OF NEW ORLEANS**

**AND**

**JEFF ASHER CONSULTING, LLC**

**THIS PROFESSIONAL SERVICES AGREEMENT** (the “**Agreement**”) is entered into by and between the City of New Orleans, through the Council of the City of New Orleans (the “**Council**”), represented by Jason R. Williams, Council President (as the “**City**”) and Jeff Asher Consulting, Inc., represented by Jeff Asher, President (“**Contractor**”). The City and the Contractor may sometimes be collectively referred to as the “**Parties.**” This Agreement is effective as of the date of execution by the City (the “**Effective Date**”).

**WITNESSETH**

**WHEREAS**, pursuant to Rule 45, the City Council adopted Motion M-17-526 on November 16, 2018 directing the Council staff to initiate a competitive selection process to retain an independent consultant to provide expertise and assess level of service efficiency opportunities related to public safety and criminal justice reform; and

**WHEREAS**, a Request for Qualifications relative to a Public Safety Analyst Services Consultancy was issued on March 5, 2018 (“**RFQ**”); and

**WHEREAS**, responses to the RFQ were reviewed by the Staff Selection Review Committee on May 18, 2018 and the committee recommended that the Council give further consideration to the sole respondent, Jeff Asher Consulting, LLC.; and

**WHEREAS**, pursuant to Motion M-18-193 the City Council approved Contractor as an independent, neutral and unbiased Contractor to the City Council to perform public safety and criminal justice reform consulting services; and

**WHEREAS**, the Contractor is herein represented by Jeff Asher, President of Jeff Asher Consulting, LLC. as authorized by letter to enter into agreement on behalf of the Contractor.

**NOW, THEREFORE**, the Parties for the consideration, and under conditions set forth, do agree as follows:

**ARTICLE I - CONTRACTOR'S OBLIGATIONS**

1           A.     Contractor's Obligations. The Public Safety Analyst ("Analyst") will work with  
2 the Council through the Criminal Justice Committee ("Committee") to provide assessment of,  
3 and recommendations for the following:

- 4           1. Levels of service ("LOS") and statistical analysis for each of the service areas listed  
5           below.
- 6           2. Identification of alternative methods of criminal justice and legal service delivery that can  
7           realize service improvements, new efficiencies and long-term financial sustainability,  
8           such as regionalization and partnerships.
- 9           3. Strategies to expand understanding, trust, and partnerships with the community, City  
10          officials, City departments, the judicial branch of government and other entities.
- 11          4. Viable strategies to mature the cultural competence of the City, and to expand the ethnic  
12          and racial diversity within these service areas to better represent that of the New Orleans  
13          community.
- 14          5. Catalog re-entry services available to men and women in New Orleans and strategies to  
15          strengthen and improve re-entry services.

16 The Analyst's responsibilities will include a review of the following service areas, and others  
17 which may later be identified by the Committee:

- 18          1. Police
- 19          2. Jail (corrections)
  - 20               a. OPSO Facilities (including out of parish detainees)
  - 21               b. Youth Study Center
- 22          3. Courts
  - 23               a. Criminal District Court
  - 24               b. Municipal Court
  - 25               c. Juvenile Justice Center
- 26          4. Legal
  - 27               a. Public defense
  - 28               b. District Attorney
  - 29               c. City Attorney
- 30          5. Re-entry Services

31



1 funds are not so encumbered. It is understood and acknowledged by the Contractor that the  
2 obligations described under these terms is to be accomplished during the time period specified  
3 herein. This Agreement may be extended by the City for 4 additional one-year terms.

4 **B. Extension.** This Agreement may be extended at the sole option of the City,  
5 provided that funds are allocated by the City Council and the extension of the Agreement  
6 facilitates the continuity of services provided herein.

7 **C. Termination for Convenience.** The City may terminate this Agreement at any  
8 time during the term of the Agreement by giving the Contractor written notice of the termination  
9 at least 30 calendar days before the intended date of termination.

10 **D. Termination for Non-Appropriation.** This Agreement will terminate  
11 immediately in the event of non-appropriation of funds sufficient to maintain this Agreement  
12 without the requirement of notice and the City will not be liable for any amounts beyond the  
13 funds appropriated and encumbered for this Agreement.

14 **E. Termination for Cause.** The City may terminate this Agreement immediately for  
15 cause by sending written notice to the Contractor. "Cause" includes without limitation any  
16 failure to perform any obligation or abide by any condition of this Agreement or the failure of  
17 any representation or warranty in this Agreement, including without limitation any failure to  
18 comply with any provision of City Code § 2-1120 or requests of the Office of Inspector General.  
19 If a termination for cause is subsequently challenged in a court of law and the challenging party  
20 prevails, the termination will be deemed to be a termination for convenience effective 30 days  
21 from the date of the original written notice of termination for cause was sent to the challenging  
22 party; no further notice will be required.

23 **ARTICLE V – INDEMNITY AND INSURANCE**

24 **A. Indemnity.** The Contractor shall indemnify and save harmless the City against  
25 any and all claims, demands, suits, judgments of sum of money to any party accruing against the  
26 City for loss of life or injury or damage to persons or property growing out of, resulting from, or  
27 by reason of any act of omission of the operation of the Contractor, their agents, servants or  
28 employees while engaged in or about or in connection with the discharge or performance of the  
29 services to be done or performed by the Contractor hereunder, and shall also hold the City

1 harmless from any and all claims and/or liens for labor, services, or materials furnished to the  
2 Contractor in connection with the performance of their obligations under this Agreement.

3 **B. Insurance.** Coverage shall be at least as broad as the following: Professional  
4 Liability (Errors and Omissions): with limits no less than \$1,000,000 per claim.

5 Primary Coverage. For any claims related to this contract, Contractor's insurance  
6 coverage shall be primary insurance as respects the City, its departments, political subdivisions,  
7 officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the  
8 City shall be non-contributing to Contractor's coverage.

9 Claims Made Policies.

10 1. The retroactive date must be shown and must be before the date of the contract or the  
11 beginning of work.

12 2. If the coverage is canceled or non-renewed, and not replaced with another claims-made  
13 policy, Contractor must purchase "extended reporting" coverage for minimum of five (5)  
14 years after the termination of this agreement.

15 Waiver of Subrogation. Contractor and its insurers agree to waive any right of  
16 subrogation which any insurer may acquire against the City by virtue of the payment of any loss  
17 under insurance required by this contract.

18 Notice of Cancellation. Each insurance policy required above shall provide that coverage  
19 shall not be canceled, except with prior notice to the City of no less than 30 days.

20 Acceptability of Insurers. Insurance is to be placed with insurers licensed and authorized  
21 to do business in the State of Louisiana with a current A.M. Best's rating of no less than A:VII,  
22 unless otherwise acceptable to the City.

23 1. The Contractor will provide the City with the following documents within ten  
24 (10) calendar days of this Agreement's effective date and at any other time at the City's request:

25 a. Proof of coverage for each policy of insurance required by this Agreement;

26 2. Without notice from the City, the Contractor will:

27 a. Replenish any policy aggregate limit that is impaired before  
28 commencement of any work or continuation of any work under this  
29 Agreement;

30 b. Substitute insurance coverage acceptable to the City within thirty (30)  
31 calendar days if any insurance company providing any insurance with

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1 respect to this Agreement is declared bankrupt, becomes insolvent, loses  
2 the right to do business in Louisiana, or ceases to meet the requirements of  
3 this Agreement; and

- 4 c. Notify the City's Risk Manager in writing within ten (10) days of its  
5 receipt of any notice of non-renewal, cancellation, or reduction in  
6 coverage or limits affecting any policy of insurance maintained under this  
7 Agreement.

#### 8 ARTICLE VI – LIVING WAGES

9 To the fullest extent permitted by law, the Contractor agrees to abide by City Code  
10 sections 70-801, *et seq.*, which requires payment of a wage to covered employees equal to the  
11 amounts defined in the Code ("**Living Wage**"). If the Contractor fails to comply with the  
12 requirements of the Living Wage during the term of the Agreement, said failure may result in  
13 termination of the Agreement or the pursuit of other remedies by the City.

#### 14 ARTICLE VII - NON-DISCRIMINATION

15 A. Equal Employment Opportunity. In all hiring or employment made possible by,  
16 or resulting from this Agreement, the Contractor (1) will not discriminate against any employee  
17 or applicant for employment because of race, color, religion, gender, age, physical or mental  
18 disability, national origin, sexual orientation, creed, culture, or ancestry, and (2) where  
19 applicable, will take affirmative action to ensure that the Contractors' employees are treated  
20 during employment without regard to their race, color, religion, gender, age, physical or mental  
21 disability, national origin, sexual orientation, creed, culture, or ancestry. This requirement shall  
22 apply to, but not be limited to the following: employment, upgrading, demotion or transfer,  
23 recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of  
24 compensation, and selection for training, including apprenticeship. All solicitations or  
25 advertisements for employees shall state that all qualified applicants will receive consideration  
26 for employment without regard to race, color, religion, gender, age, physical or mental disability,  
27 national origin, sexual orientation, creed, culture, or ancestry.

28 B. Non-Discrimination. In the performance of this Agreement, the Contractor will  
29 not discriminate on the basis, whether in fact or perception, of a person's race, color, creed,

1 religion, national origin, ancestry, age, sex (gender), sexual orientation, gender identity, domestic  
2 partner status, marital status, physical or mental disability, or AIDS- or HIV-status against (1)  
3 any employee of the City working with the Contractor in any of Contractors' operations within  
4 Orleans Parish or (2) any person seeking accommodations, advantages, facilities, privileges,  
5 services, or membership in all business, social, or other establishments or organizations operated  
6 by the Contractor. The Contractor agrees to comply with and abide by all applicable federal,  
7 state and local laws relating to non-discrimination, including, without limitation, Title VI of the  
8 Civil Rights Act of 1964, Section V of the Rehabilitation Act of 1973, and the Americans with  
9 Disabilities Act of 1990.

10 C. *Incorporation into Subcontracts.* The Contractor will incorporate the terms and  
11 conditions of this Article into all subcontracts, by reference or otherwise, and will require all  
12 subcontractors to comply with those provisions.

13 D. The City may terminate this Agreement for cause if the Contractor fails to comply  
14 with any obligation in this Article, which failure is a material breach of this Agreement.

15 **ARTICLE VIII - INDEPENDENT CONTRACTOR**

16 A. *Independent Contractor Status.* The Contractor is an independent contractor and  
17 shall not be deemed an employee, servant, agent, partner, or joint venture of the City and will not  
18 hold itself or any of its employees, subcontractors or agents to be an employee, partner, or agent  
19 of the City.

20 B. *Exclusion of Worker's Compensation Coverage.* The City will not be liable to  
21 the Contractor, as an independent contractor as defined in La. R.S. 23:1021(6), for any benefits  
22 or coverage as provided by the Workmen's Compensation Law of the State of Louisiana. Under  
23 the provisions of La. R.S. 23:1034, any person employed by the Contractor will not be  
24 considered an employee of the City for the purpose of Worker's Compensation coverage.

25 C. *Exclusion of Unemployment Compensation Coverage.* The Contractor, as an  
26 independent contractor, is being hired by the City under this Agreement for hire and defined in  
27 La. R.S. 23:1472(E) and neither the Contractor nor anyone employed by them will be considered  
28 an employee of the City for the purpose of unemployment compensation coverage, which  
29 coverage same being hereby expressly waived and excluded by the Parties, because: (a) the  
30 Contractor has been and will be free from any control or direction by the City over the

1 performance of the services covered by this Agreement; (b) the services to be performed by the  
2 Contractor are outside the normal course and scope of the City's usual business; and (c) the  
3 Contractor has been independently engaged in performing the services required under this  
4 Agreement prior to the date of this Agreement.

5 **D. Waiver of Benefits.** The Contractor, as independent contractor, will not receive  
6 from the City any sick and annual leave benefits, medical insurance, life insurance, paid  
7 vacations, paid holidays, sick leave, pension, or Social Security for any services rendered to the  
8 City under this Agreement.

9 **ARTICLE IX - NOTICE**

10 **A. In General.** Except for any routine communication, any notice, demand,  
11 communication, or request required or permitted under this Agreement will be given in writing  
12 and delivered in person or by certified mail, return receipt requested as follows:

13 1. To the City:  
14 David S. Gavlinski  
15 Council Chief of Staff  
16 1300 Perdido Street, Room 1E06  
17 New Orleans, LA 70112  
18

19 2. To the Contractor:  
20 Jeff Asher  
21 Jeff Asher Consulting, LLC  
22 6052 Orleans Ave  
23 New Orleans, LA 70124  
24

25 **B. Effectiveness.** Notices are effective when received, except any notice that is not  
26 received due to the intended recipient's refusal or avoidance of delivery is deemed received as of  
27 the date of the first attempted delivery.

28 **C. Notification of Change.** Each party is responsible for notifying the other in  
29 writing that references this Agreement of any changes in its address(es) set forth above.

30 **ARTICLE X - ADDITIONAL PROVISIONS**

31 **A. Amendment.** No amendment of or modification to this Agreement shall be valid  
32 unless and until executed in writing by the duly authorized representatives of both parties to this  
33 Agreement.



1           B.    Assignment. This Agreement and any part of the Contractor's interest in it are  
2 not assignable or transferable without the City's prior written consent.

3           C.    Audit and Oversight. The Contractor will abide by all provisions of City Code §  
4 2-1120, including but not limited to City Code § 2-1120(12), which requires the Contractor to  
5 provide the Office of Inspector General with documents and information as requested subject to  
6 attorney-client privilege. Failure to comply with such requests shall constitute a material breach  
7 of the contract. The Contractor agrees that it is subject to the jurisdiction of the Orleans Parish  
8 Civil District Court for purposes of challenging a subpoena.

9           D.    Choice of Law. This Agreement will be construed and enforced in accordance  
10 with the laws of the State of Louisiana without regard to its conflict of laws provisions.

11           E.    Conflicting Employment. To ensure that the Contractor's efforts do not conflict  
12 with the City's interests, and in recognition of the Contractor's obligations to the City, the  
13 Contractor will decline any offer of other employment if its performance of this Agreement is  
14 likely to be adversely affected by the acceptance of the other employment. The Contractor will  
15 promptly notify the City in writing of its intention to accept the other employment and will  
16 disclose all possible effects of the other employment on the Contractor's performance of this  
17 Agreement. The City will make the final determination whether the Contractor may accept the  
18 other employment.

19           F.    Conflict Of Interest. The Contractor expressly acknowledges that this Agreement  
20 is for the performance of professional services on behalf of the Client, the City. The Contractor  
21 represents that it has performed a conflicts check and affirms that no actual, perceived or  
22 potential conflicts exist. The Contractor acknowledges that it has an ongoing obligation to  
23 identify potential conflicts and to decline representation which presents a conflict. Any request  
24 for a conflict waiver must be presented to the City in writing. Nevertheless, the City is under no  
25 obligation to approve conflict waiver requests. Such approval will not be unreasonably withheld.

26           G.    Construction of Agreement. Neither party will be deemed to have drafted this  
27 Agreement. This Agreement has been reviewed by the Parties and shall be construed and  
28 interpreted according to the ordinary meaning of the words used so as to fairly accomplish the  
29 purposes and intentions of the Parties. No term of this Agreement shall be construed or resolved  
30 in favor of or against the City or the Contractors on the basis of which party drafted the uncertain  
31 or ambiguous language. The headings and captions of this Agreement are provided for

1 convenience only and are not intended to have effect in the construction or interpretation of this  
2 Agreement. Where appropriate, the singular includes the plural and neutral words and words of  
3 any gender shall include the neutral and other gender.

4 **H. Convicted Felon Statement.** The Contractor complies with City Code § 2-8(c)  
5 and no principal, member, or officer of the Contractor has, within the preceding 5 years, been  
6 convicted of, or pled guilty to, a felony under state or federal statutes for embezzlement, theft of  
7 public funds, bribery, or falsification or destruction of public records.

8 **I. Employee Verification.** The Contractor swears that (i) it is registered and  
9 participates in a status verification system to verify that all employees in the State of Louisiana  
10 are legal citizens of the United States or are legal aliens; (ii) it shall continue, during the term of  
11 this Agreement, to utilize a status verification system to verify the legal status of all new  
12 employees in the State of Louisiana; and (iii) it shall require all subcontractors to submit to the  
13 Contractor a sworn affidavit verifying compliance with items (i) and (ii) above. Any violation of  
14 the provisions of this paragraph may subject this Agreement to termination, and may further  
15 result in the Contractor being ineligible for any public contract for a period of 3 years from the  
16 date the violation is discovered. The Contractor further acknowledges and agrees that it shall be  
17 liable for any additional costs incurred by the City occasioned by the termination of this  
18 Agreement or the loss of any license or permit to do business in the State of Louisiana resulting  
19 from a violation of this provision. The Contractor will provide to the City a sworn affidavit  
20 attesting to the above provisions if requested by the City. The City may terminate this  
21 Agreement for cause if the Contractor fails to provide such the requested affidavit or violates any  
22 provision of this paragraph.

23 **J. Entire Agreement.** This Agreement, including all incorporated documents,  
24 constitutes the final and complete agreement and understanding between the Parties. All prior  
25 and contemporaneous agreements and understandings, whether oral or written, are superseded by  
26 this Agreement and are without effect to vary or alter any terms or conditions of this Agreement.

27 **K. Jurisdiction.** The Contractor consent and yield to the jurisdiction of the State  
28 Civil Courts of the Parish of Orleans and formally waives any pleas or exceptions of jurisdiction  
29 on account of the residence of the Contractor.

30 **L. Limitations of the City's Obligations.** The City has no obligations not explicitly  
31 set forth in this Agreement or any incorporated documents or expressly imposed by law.

1 M. No Third Party Beneficiaries. This Agreement is entered into for the exclusive  
2 benefit of the Parties and the Parties expressly disclaim any intent to benefit anyone not a party  
3 to this Agreement, except for the benefit received by Contractor's subcontractors when  
4 Contractor pays them.

5 N. Non-Exclusivity. This Agreement is non-exclusive and the Contractor may  
6 provide services to other clients, subject to the City's approval of any potential conflicts with the  
7 performance of this Agreement and the City may engage the services of others for the provision  
8 of some or all of the work to be performed under this Agreement.

9 O. Non-Solicitation Statement. The Contractor has not employed or retained any  
10 company or person, other than a bona fide employee working solely for it, to solicit or secure  
11 this Agreement. The Contractor has not paid or agreed to pay any person, other than a bona fide  
12 employee working for it, any fee, commission, percentage, gift, or any other consideration  
13 contingent upon or resulting from this Agreement.

14 P. Non-Waiver. The failure of either party to insist upon strict compliance with any  
15 provision of this Agreement, to enforce any right or to seek any remedy upon discovery of any  
16 default or breach of the other party at such time as the initial discovery of the existence of such  
17 noncompliance, right, default or breach shall not affect or constitute a waiver of either party's  
18 right to insist upon such compliance, exercise such right or seek such remedy with respect to that  
19 default or breach or any prior contemporaneous or subsequent default or breach.

20 Q. Ownership Interest Disclosure. The Contractor will provide a sworn affidavit  
21 listing all natural or artificial persons with an ownership interest in the Contractor and stating  
22 that no other person holds an ownership interest in the Contractor via a counter letter. For the  
23 purposes of this provision, an "ownership interest" shall not be deemed to include ownership of  
24 stock in a publicly traded corporation or ownership of an interest in a mutual fund or trust that  
25 holds an interest in a publicly traded corporation. If the Contractor fails to submit the required  
26 affidavits, the City may, after 30 days' written notice to the Contractor, take such action as may  
27 be necessary to cause the suspension of any further payments until such the required affidavits  
28 are submitted.

29 R. Ownership of Records. Except as noted at the end of this paragraph. upon final  
30 payment, all data collected and all products of work prepared, created or modified by the  
31 Contractor in the performance of this Agreement, including without limitation any and all notes,

1 tables, graphs, reports, files, computer programs, source code, documents, records, disks, original  
2 drawings or other such material, regardless of form and whether finished or unfinished, but  
3 excluding the Contractor's personnel and administrative records and any tools, systems, and  
4 information used by the Contractors to perform the services under this Agreement, including  
5 computer software (object code and source code), know-how, methodologies, equipment, and  
6 processes and any related intellectual property (collectively, "Work Product") will be the  
7 exclusive property of City and the City will have all right, title and interest in any Work Product,  
8 including without limitation the right to secure and maintain any copyright, trademark, or patent  
9 of Work Product in the City's name. No Work Product may be reproduced in any form without  
10 the City's express written consent. The City may use and distribute any Work Product for any  
11 purpose the City deems appropriate without the Contractors' consent and for no additional  
12 consideration to the Contractor.

13 S. Prohibition of Financial Interest in Agreement. No elected official or employee  
14 of the City shall have a financial interest, direct or indirect, in this Agreement. For purposes of  
15 this provision, a financial interest held by the spouse, child, or parent of any elected official or  
16 employee of the City shall be deemed to be a financial interest of such elected official or  
17 employee of the City. Any willful violation of this provision, with the expressed or implied  
18 knowledge of the Contractor, shall render this Agreement voidable by the City and shall entitle  
19 the City to recover, in addition to any other rights and remedies available to the City, all monies  
20 paid by the City to the Contractor pursuant to this Agreement without regard to Contractors'  
21 otherwise satisfactory performance of the Agreement.

22 T. Prohibition on Political Activity. None of the funds, materials, property, or  
23 services provided directly or indirectly under the terms of this Agreement shall be used in the  
24 performance of this Agreement for any partisan political activity, or to further the election or  
25 defeat of any candidate for public office.

26 U. Remedies Cumulative. No remedy set forth in the Agreement or otherwise  
27 conferred upon or reserved to any party shall be considered exclusive of any other remedy  
28 available to a party. Rather, each remedy shall be deemed distinct, separate and cumulative and  
29 each may be exercised from time to time as often as the occasion may arise or as may be deemed  
30 expedient.

31 V. Severability. Should a court of competent jurisdiction find any provision of this

1 Agreement to be unenforceable as written, the unenforceable provision should be reformed, if  
2 possible, so that it is enforceable to the maximum extent permitted by law or, if reformation is  
3 not possible, the unenforceable provision shall be fully severable and the remaining provisions of  
4 the Agreement remain in full force and effect and shall be construed and enforced as if the  
5 unenforceable provision was never a part the Agreement.

6 W. Subcontractor Reporting. The Contractor will provide a list of all natural or  
7 artificial persons who are retained by the Contractor at the time of the Agreement's execution  
8 and who are expected to perform work as subcontractors in connection with the Contractor's  
9 work for the City. For any subcontractor proposed to be retained by the Contractor to perform  
10 work on the Agreement with the City, the Contractor must provide notice to the City within 30  
11 days of retaining that subcontractor. If the Contractor fails to submit the required lists and  
12 notices, the City may, after thirty 30 days' written notice to the Contractor, take any action it  
13 deems necessary, including, without limitation, causing the suspension of any payments, until the  
14 required lists and notices are submitted.

15 X. Survival of Certain Provisions. All representations and warranties and all  
16 obligations concerning record retention, inspections, audits, ownership, indemnification,  
17 payment, remedies, jurisdiction, and choice of law shall survive the expiration, suspension, or  
18 termination of this Agreement and continue in full force and effect.

19 Y. Terms Binding. The terms and conditions of this Agreement are binding on any  
20 heirs, successors, transferees, and assigns.

21 **ARTICLE XI - ELECTRONIC SIGNATURE AND DELIVERY**


22 The Parties agree that a manually signed copy of this Agreement and any other  
23 document(s) attached to this Agreement delivered by email shall be deemed to have the same  
24 legal effect as delivery of an original signed copy of this Agreement. No legally binding  
25 obligation shall be created with respect to a party until such party has delivered or caused to be  
26 delivered a manually signed copy of this Agreement.

27 **[The remainder of this page is intentionally left blank]**

28 **[SIGNATURES CONTAINED ON NEXT PAGE]**

1           **IN WITNESS WHEREOF**, the City and the Contractor, through their duly authorized  
2 representatives, execute this Agreement.

3                                   **CITY OF NEW ORLEANS**

4                                   **BY:** 

5                                   **Jason R. Williams, Council President**

6                                   Executed on this 19 of July, 2018.

7  
8           **APPROVED:**

9           **Law Department**

10           **By:** 

11           **Printed Name:** Tracy Tyler

12  
13                                   **JEFF ASHER CONSULTING, LLC**

14                                   **BY:** 

15                                   **Jeff Asher, President, Jeff Asher Consulting, LLC**

16           **[The remainder of this page is intentionally left blank]**