

RESOLUTION NO. 2022 - 343

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE AWARD OF RFP NO: 22-10R TO ST. JOHNS COUNTY COUNCIL ON AGING, INC., AS THE HIGHEST RANKED RESPONDENT, AND EXECUTION OF A CONTRACT FOR PERFORMANCE OF THE SERVICES IN ACCORDANCE WITH THE CONTRACT DOCUMENTS UNDER RFP NO: 22-10R.

RECITALS

WHEREAS, St. Johns County Transit System provides public transportation through nine (9) deviated fixed-routes and a demand response system utilizing twenty (20) peak-hour buses throughout the County. RFP No: 22-10R was issued to solicit proposals from qualified firms to provide these services; and

WHEREAS, the scope of the services will be to provide management and operations of the deviated fixed-route mass transit and demand response services for public transportation in St. Johns County in a safe, efficient, and effective manner, in accordance with RFP No: 22-10R; and

WHEREAS, through the County's formal RFP process, St. Johns County Council on Aging, Inc. was evaluated as the highest-ranking Respondent, and staff recommends executing a contract with St. Johns County Council on Aging, Inc. to perform the specified services under RFP No: 22-10R; and

WHEREAS, the County finds that entering into contract to complete the services serves a public purpose, and the contract shall be funded through State FDOT grants, FTA Funds, County General Funds, appropriated each year and offset by revenues generated through bus advertising, Sunshine Bus fares and Paratransit fees; and

WHEREAS, the contract has been negotiated in accordance with County Policy and is attached hereto.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as finds of fact.

Section 2. The County Administrator, or designee, is hereby authorized to award RFP No. 22-10R; Management and Operations of St. Johns County Transit System to St. Johns County Council on Aging, Inc., as the highest ranked Respondent.

Section 3. Upon Board approval, the County Administrator, or designee, is further authorized to execute a Contract in substantially the same form and format as attached for performance of the Services in accordance with the Contract Documents under RFP No: 22-10R.

Section 4. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, on this 20 day of September, 2022.

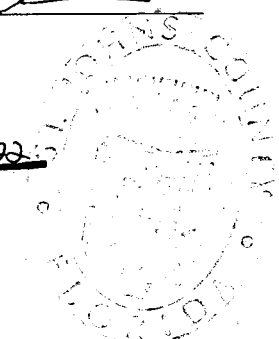
BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA

By: Henry Dean
Henry Dean, Chair

ATTEST: Brandon J. Patty,
Clerk of Circuit Court & Comptroller

By: Pam Halterman
Deputy Clerk

Rendition Date 9/22/22





GENERAL SERVICES AGREEMENT
BETWEEN
ST. JOHNS COUNTY AND CONTRACTOR

General Services Agreement No: [REDACTED]

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This General Services Agreement (“Contract”) is made this [REDACTED] day of [REDACTED], 20[REDACTED] (the “Effective Date”) by and between **ST. JOHNS COUNTY** (“County”), a political subdivision of the State of Florida, whose principal offices are located at 500 San Sebastian View, St. Augustine, FL 32084; and **ST. JOHNS COUNTY COUNCIL ON AGING, INC** (“Contractor”), a company authorized to do business in the State of Florida, with its principal offices located at: 180 Marine Street, St. Augustine, FL 32084, Phone: (904) 209-3685, and E-mail: byanni@stjohnscoa.com, for **RFP NO.: 22-10R; Management and Operations of St. Johns County Transit System**. When referred to together, the County and Contractor shall be referred to, collectively, as the “Parties”.

In consideration of the mutual promises and covenants contained herein, the parties hereby agree as follows:

ARTICLE I CONTRACT DOCUMENTS

1.1 The Contract Documents

1.1.1 The Contract Documents are the documents that shall govern the performance of the Services and shall be comprised of the following:

- a) Fully Executed change Orders and Amendments to this Agreement;
- b) Notice to Proceed;
- c) General Services Agreement
 - i. Exhibit A – Required FTA Contract Clauses
 - ii. Exhibit B – Contractor’s Cost/Price Proposal
 - iii. Exhibit C – Contractor’s Insurance Certificate(s) and Endorsements
- d) RFP Documents and RFP Forms with all addenda thereto for RFP No: 22-10R

1.1.2 Documents not enumerated above are not Contract Documents and do not form part of this Contract. No terms, conditions, limitations or exclusions in Contractor’s proposal documents or invoices shall be binding upon County or become part of the Contract Documents. In the event of conflicts or discrepancies, the Contract Documents shall be interpreted in the order of precedence as listed above in Section 1.1.1. Additionally, electronic documents shall govern over hard-copy documents, numerical dimensions shall govern over dimensions acquired by scaling, and fully executed documents shall govern over unsigned drafts.

1.1.3 Contractor is solely responsible for requesting instructions, interpretations or clarifications to the Contract Documents and is solely liable for any cost and/or expenses arising from its failure to do so. Any dispute relating to the Contract Documents, shall be resolved through good faith efforts upon the part of the Contractor and the County. Should the Contractor have any questions concerning interpretation or clarification of the Contract Documents, Contractor shall submit to the County’s Representative, in writing, a request for clarification that clearly and concisely sets forth the issues for which such request is sought. Such request shall be submitted to the County’s Representative by the Contractor within three (3) business days of receipt of the Contract Documents, or the direction, interpretation, or clarification thereof provided by the County. The County’s Representative will render their determination concerning such interpretation or clarification, which determination shall be considered final and conclusive unless Contractor files a written protest to the County’s rendered determination with the Assistant Director of Purchasing & Contracts within fourteen (14) calendar days of receipt thereof. Contractor’s protest shall state clearly and in detail the basis thereof. Failure by the Contractor to protest the County’s rendered determination within fourteen (14) calendar days shall constitute a waiver by Contractor of all its rights to further protest, judicial or otherwise. The Assistant Director of Purchasing & Contracts shall consider the Contractor’s protest and render its decision thereon, in writing, within ten (10) calendar days. If Contractor does not agree with the Assistant Director of Purchasing & Contract’s decision, Contractor shall deliver written notice to that effect to the County Attorney’s Office within three (3) business days of receipt of the County’s decision.

1.1.4 Unless otherwise directed in writing, Contractor shall at all times carry on the Services in accordance with the requirements of the Contract and the determination of the County, pending resolution of any Contract Document Dispute. In no event shall a dispute, the filing of a protest, claim or appeal, or the resolution or litigation thereof, relieve the Contractor from its obligations to timely perform the Services required under this Agreement.

1.1.5 Any and all Contract Documents shall remain the property of the County. Contractor is granted a limited license to use and reproduce applicable portions of the Contract Documents issued by the County appropriate to, and for use in, execution of the Services. Contractor shall have the right to keep one record set of the Contract Documents upon completion

of the Services; provided, however, that in no event shall Contractor and/or Contractor's sub-contractors use, or permit to be used, any or all of such Contract Documents for other, unrelated purposes, without specific written consent of the County.

1.2 Definitions

Terms used within this Agreement shall have the meaning as set forth in the St. Johns County Purchasing Policy or as provided herein. Terms defined herein for specific application to this Agreement shall govern over definitions of terms provided in the St. Johns County Purchasing Policy.

1.2.1 Addendum (Addenda): A document issued by the County during the bidding period which modifies, supersedes or supplements the Contract Documents.

1.2.2 Applicable Laws: All local, state, and federal laws, statutes, codes, ordinances, rules and regulations in effect at the time Services are performed under this Agreement.

1.2.3 Amendment: A written addition or modification of, or a waiver of a right or obligation under the terms of the Contract executed by the County and issued after execution of the Contract.

1.2.4 Claim: Any claim, liability, loss, demand, demand for arbitration, damage, lien, cause of action of any kind, obligation, responsibility, cost, expense, royalty, fee, assessment, penalty, fine, judgment, interest or award, pending or threatened, whether arising by law, contract, tort, voluntary settlement or otherwise.

1.2.5 Change Order: A written order to Contractor executed by the County, issued after execution of this Contract, authorizing and directing a change in the Services or an adjustment in the Contract Price or the Contract Time, or any combination thereof.

1.2.6 Contract Price: The amount paid, as reimbursement for eligible expenses, in accordance with Exhibit B, as may be revised by Amendment or Change Order. Unless otherwise approved by the County in writing, the Contract Price includes all taxes, including without limitation, income and withholding tax of any kind and sales tax imposed by the state or by the County and paid by Contractor or any Subcontractors with respect to sales of goods purchased for the performance of the Services.

1.2.7 Contract Term: The period of time between the Effective Date and Expiration Date of this Agreement, within which all Services shall be performed by the Contractor.

1.2.8 Force Majeure Events: Those events that are not reasonably foreseeable and are beyond the control of both the Contractor and the County, including acts of war, terrorist attacks, labor strikes, floods, earthquakes, epidemics, pandemics, riots, adverse weather conditions and other acts of God.

1.2.9 Jobsite: Any physical location or other place on, under, in, at or through which any aspect of the Services are performed.

1.2.10 County Representative: The individual tasked with representing the interests of the County throughout the duration of the Contract.

1.2.11 Services: The provision by the Contractor of all labor, materials, supplies, equipment and other items necessary to provide for the operation and management of the County's transit system, as provided in the Contract Documents.

1.2.12 Subcontractor: A Subcontractor is an individual, partnership, corporation, association, joint-venture or any combination thereof, which has a direct or indirect contract with Contractor to perform a portion of the Services.

1.3 Independent Contractor

Contractor represents that it is fully experienced and properly qualified, licensed, equipped, organized, and financed to perform the Work under this Contract. Contractor shall act as an independent contractor and not as an agent in performing this Contract and shall maintain complete control over its employees and all of its Subcontractors and suppliers of any tier. Nothing contained in this Contract or any lower-tier subcontract or purchase order awarded by Contractor shall create any contractual relationship between any such subcontractor or supplier and the County. Contractor shall perform all Work in

accordance with the requirements of this Contract and in accordance with its own methods subject to compliance with this Contract.

ARTICLE II THE SERVICES

2.1 Labor and Materials

2.1.1 Contractor shall perform all of the Services required, implied, or reasonably inferable from, the Contract Documents. Unless otherwise provided in the Contract Documents, Contractor shall provide and pay for all labor, supervision, materials, supplies, tools, transportation, storage, equipment and machinery, utilities (including but not limited to water, heat, fuel, light, and cooling), and all other services necessary for proper execution and completion of the Services, whether temporary or permanent. Materials, articles and equipment furnished by Contractor for incorporation into the Services shall be new unless otherwise specified in the Contract Documents.

2.1.2 Contractor shall use only competent and skilled personnel to perform and supervise the Services and shall remove from such Services any person determined to be unfit, unqualified, or acting in violation of any obligation of Contractor under the Contract Documents. In the event a person is removed from the Work, Contractor shall promptly replace such individual with another who is fully competent and skilled to perform the Services at Contractor's sole expense.

2.1.3 Contractor shall perform Services in accordance with the schedule(s) and timeframes as provided in the Contract Documents, unless otherwise amended in accordance with the provisions of this Agreement.

2.1.4 Contractor shall not perform, conduct or otherwise include services other than those specified within the Contract Documents under this Agreement. Only the Services as specified in the Contract Documents shall be considered for payment by the County.

2.2 Payment of Costs

Except as otherwise expressly provided, Contractor shall pay directly all costs and expenses of the Services of any kind or nature whatsoever including payments due to Subcontractors and suppliers, legal, financial, sales, use and similar taxes on materials and equipment, transportation and storage of materials and equipment, preparation of schedules, budgets and reports and all other costs required to satisfactorily complete the Services.

2.3 Cleaning the Jobsite

Contractor shall keep maintain the Jobsite(s) neat, secure and orderly throughout the duration of this Agreement, and shall clean up and remove all waste, rubbish and debris as they accumulate. Upon expiration of this Agreement, Contractor shall clean and restore the Jobsite(s) to an acceptable condition as determined by the County.

2.4 Access to Work

The County and/or County Representative, shall at all reasonable times have full access to all parts and locations of the Jobsite(s) from commencement of the Services through Contract Expiration. Contractor shall take whatever steps necessary to provide such access when requested.

2.5 Utilities

If the scope of Work requires, Contractor shall, at its expense, make all arrangements necessary to secure the availability of and maintain all temporary utilities required to construct and operate Contractor's Work as required by the Contract Documents.

2.6 Taxes

Contractor shall pay all taxes, levies, duties and assessments of every nature which may be applicable to any Services under this Agreement. The Contract Price and any agreed variations thereof shall include all applicable taxes imposed by law. Contractor shall make any and all payroll deductions required by law. Contractor herein indemnifies and holds the County harmless from any liability on account of any and all such taxes, levies, duties, assessments and deductions. The indemnity provision of this section shall survive the expiration or earlier termination of this Contract. Contractor may not use the County's tax-exempt status unless specifically authorized in writing in advance.

2.7 Publicity and Advertising

2.7.1 Contractor shall not make any announcement or release any information or publish any photographs concerning this Agreement or the Services or any part thereof to any member of the public, press or any official body, unless prior written consent is obtained from the County.

2.7.2 Use of the County Seal or County Logo is strictly prohibited. In accordance with, County Ordinance 92-2 and County Administrative Policy 101.3, Contractor may not manufacture, use, display, or otherwise use any facsimile or reproduction of the County Seal or Logo without express written approval of the Board of County Commissioners of St. Johns County, Florida.

2.8 County Furnished Items

2.8.1 Contractor shall obtain and pay for all permits, fees and licenses necessary and ordinary for the performance of the Services. Excluding such permits, fees and licenses, the County shall obtain all approvals, easements, and the like required for Services.

2.8.2 The County shall furnish Contractor electronic copies of the Contract Documents for execution of the Services.

ARTICLE III AGREEMENT TERM

3.1 Term

This Agreement shall become effective upon the date of execution by all parties and shall remain in effect for a period of five (5) calendar years (Contract Term), provided Contractor satisfactorily performs the required Services, availability of funds, and continued need for the Services.

3.2 Time is of the Essence

Time is of the essence regarding each and every obligation of Contractor under this Agreement. Each obligation is deemed material, and a breach of any such obligation (including a breach resulting from untimely performance) is a material breach.

3.3 Disclaimer of Consequential Damages

The County shall not be liable to Contractor, whether in contract, tort, warranty or under any statute or on any other basis, for any consequential, incidental, indirect, special, punitive or exemplary damages suffered or incurred by Contractor in connection with this Agreement, even if the County has been advised of the possibility of such damages. Consequential damages shall include, by way of example and without limitation, opportunity costs, loss of use of facilities or other assets, consequential damage claims of subcontractors, lost profits, lost savings, lost business, lost bonding capacity, lost financing, lost reputation or lost goodwill.

ARTICLE IV COMPENSATION

4.1 General

4.1.1 The County agrees to pay and Contractor agrees to accept as compensation for Services rendered pursuant to this Agreement, on a reimbursement basis, amounts for eligible expenses, as appropriated in each Fiscal Year by the Board of County Commissioners from funds including:

- 1) County General Fund for Transit;
- 2) Funds received from the Federal Transit Authority (FTA);
- 3) Funds received from State Block Grants;
- 4) Revenues generated from bus advertisement contract(s);

4.1.2 Contractor shall also utilize and apply funds received from State and other grants as well as revenues generated by Deviated Fixed Route and Demand Response Services as payment for eligible expenses, which shall offset the reimbursements made by the County.

4.1.3 The amount(s) considered for compensation by the County shall be based upon the amounts set forth in Exhibit B, attached hereto, unless otherwise amended in accordance with this Agreement.

4.1.4 The maximum amount available as compensation to the Contractor for Services satisfactorily performed, shall not exceed the amount(s) lawfully appropriated by the Board of County Commissioners for each fiscal year.

4.2 Measurement and Payment

4.2.1 On or before the twentieth (20th) day of each calendar month, Contractor shall submit a monthly invoice to the County Representative for eligible reimbursable expenses related to satisfactory performance of required Services during the preceding month, along with any such supporting documentation and information as the County may require to verify the eligibility of expenses submitted for payment. The County may prescribe the format of such invoice, the format in which the Contractor agrees to submit all invoices throughout the duration of this Agreement.

4.2.2 The County Representative shall review each submitted invoice and supporting documentation for accuracy and for verification of eligibility for reimbursement. If all information is verified by the County Representative, the invoice shall be processed for payment in accordance with the Local Government Prompt Payment Act (Section 218.70-218.80, Florida Statutes).

4.2.3 In the event the invoice or the supporting documentation is incorrect, or insufficient for such verification, the County Representative shall notify the Contractor within seven (7) calendar days of receipt of the invoice, providing instruction to the Contractor as to the information and/or documents needed for the County to process the invoice for payment. The County's timeframe for payment shall be calculated from the point of receipt of a verifiable invoice.

4.2.4 In the event any dispute with respect to any payment or invoice cannot be resolved between the Contractor and County Representative, Contractor may demand in writing a meeting with and review by the County's Assistant Director of Purchasing & Contracts. Such meeting and review shall occur within ten (10) business days of receipt by the County of Contractor's written demand. The Assistant Director of Purchasing & Contracts shall issue a written decision on the dispute within ten (10) business days of such meeting. This decision shall be deemed the County's final decision for the purpose of the Local Government Prompt Payment Act.

4.2.5 No payments of invoices (or portions thereof) shall, at any time, constitute approval or acceptance of the Services under this Contract, nor be a waiver by the County of any of the terms contained herein.

4.3 Submittal of Invoices

4.3.1 Contractor may invoice at intervals of not more than once a month for Services satisfactorily completed. Each invoice shall clearly include:

- a) The Contract Number;
- b) A unique invoice number;
- c) Contractor's legal name and address;
- d) Taxpayer identification number (Contractor's federal employer identification number);
- e) Brief description of the completed Services, in accordance with Exhibit B; and
- f) Preferred remittance address, if different from the mailing address.

4.3.2 Invoices shall be submitted to the St. Johns County Transportation Development Department, via email to: rgarvey@sjcfl.us or U.S. Postal Mail to 4040 Lewis Speedway, St. Augustine, FL 32084.

4.3.3 Each invoice shall be signed by Contractor and shall constitute Contractor's representation that the Services have progressed to the level for which payment is requested, that the Services have been properly installed or performed in full accordance with this Agreement, and that Contractor knows of no reason why payment should not be made as requested. Contractor's final invoice shall also be accompanied by a full and complete release and/or waiver of all liens complying with Section 713.20 of the Florida Statutes.

4.3.4 Contractor must remit undisputed payment due for labor, services, or materials furnished by Subcontractors and suppliers hired by Contractor, within ten (10) days after receipt of each progress payment from the County pursuant to Section 218.735 of the Florida Statutes. If necessary for the protection of the County, the County shall have the right, at its sole option, to make payment by joint check or by direct check to Contractor's Subcontractors or suppliers without advance notice to or consent of Contractor. If joint checks are issued following claims by Contractor's Subcontractors or suppliers, the County shall be entitled to an administrative fee of \$50.00 per check for the expense of processing each joint check.

Any amounts paid directly to a Subcontractor or supplier will be deducted from payments made to, or amounts due or that may become due to, Contractor. The issuance of a joint check shall create no rights in favor of any person or entity beyond the right of the named payees to payment of the check and shall not be deemed to commit the County to repeat the procedure in the future.

4.3.5 No payment shall be interpreted to constitute approval or acceptance of any Services under this Agreement, nor be considered a waiver by Contractor of any of the terms of this Agreement.

4.3.6 The County's performance and obligation to pay under this Agreement is contingent upon an appropriation of lawfully available funds by the Board of County Commissioners. The County shall promptly notify Contractor if the necessary appropriation is not made.

4.4 Withheld Payment

4.4.1 The County may decline to make payment, may withhold funds otherwise payable and, if necessary, may demand the return of some or all of the amounts previously paid to Contractor, if:

- a) Any Claims are made against Contractor by the County or third parties;
- b) Any Claims are made against the County, the County's property or any other party indemnified hereunder which is or might be covered by Contractor's Indemnification obligations under Section 10.2 below;
- c) Contractor fails to pay Subcontractors or others in full and on-time;
- d) Contractor fails to submit schedules, reports, or other information required under the Contract Documents;
- e) Contractor fails to diligently prosecute the Services and maintain progress to assure completion within the Contract Time;
- f) Contractor persistently fails to fully and timely perform the Services in accordance with the Contract Documents;
- g) Defective or nonconforming Services are not remedied; or
- h) Contractor is in default of any other representation, warranty, covenant or performance obligation of this Contract.

4.4.2 If Claims or liens filed against Contractor or property of the County connected with performance under this Agreement are not promptly removed by Contractor after receipt of written notice from the County to do so, the County may remove such Claims or liens and all costs in connection with such removal shall be deducted from withheld payments or other monies due, or which may become due, to Contractor. If the amount of such withheld payments or other monies due Contractor under the Contract is insufficient to meet such cost, or if any Claim or lien against Contractor is discharged by the County after final payment is made, Contractor and its surety or sureties shall promptly pay the County all costs (including attorney's fees) incurred thereby regardless of when such Claim or lien arose.

ARTICLE V CONTRACTOR RESPONSIBILITIES

5.1 Performance

5.1.1 Contractor warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, or investigation, or any other legal or financial condition, that would in any way prohibit, restrain, or diminish Contractor's ability to satisfy its contractual obligations hereunder.

5.1.2 Contractor shall perform no part of the Services at any time without adequate Contract Documents or, as appropriate, approved Shop Drawings, Product Data or samples for such portion of the Work. If Contractor performs any portion of the Services where Contractor knows or should know such Services involve a recognized error, inconsistency or omission in the Contract Documents without notice to the County Representative and the County, Contractor shall bear responsibility for such performance and shall bear the cost of correction.

5.1.3 Contractor shall perform the Services strictly in accordance with this Contract.

5.1.4 Contractor shall confine its operations to the Jobsite or such other land and areas identified in and permitted by the Contract Documents. Contractor shall assume full responsibility for any damage to any such land or area, to the County or occupant thereof, or of any adjacent land or areas, resulting from the performance of the Services. Should any Claim be made by any such owner or occupant because of the performance of the Services, Contractor shall promptly settle with such other party by negotiation or otherwise resolve the Claim by other dispute resolution proceeding or at law. Contractor shall, to the

fullest extent permitted by Applicable Law, indemnify and hold harmless the County, and its officers, directors, agents and employees and anyone directly or indirectly employed by them from and against Claims, costs, losses, and damages arising out of or resulting from any Claim or action, legal or equitable, brought by any such owner or occupant against the County or any other party indemnified hereunder to the extent caused by or based upon Contractor's or a Subcontractor's performance of the Services.

5.1.5 Contractor is solely and exclusively responsible for supervising all workers at the Jobsite. Contractor shall supervise and direct the Services using Contractor's best skill, effort and attention. Contractor shall be responsible to the County for any and all acts or omissions of Contractor, its employees and others engaged in the Services on behalf of Contractor.

5.1.6 Contractor and the Services must comply with all Applicable Law and the requirements of any applicable grant agreements.

5.2 Authorized Representative

Prior to commencing Services, Contractor shall designate in writing a competent, authorized representative(s) acceptable to the County to represent and act for Contractor ("Authorized Representative"). All communications given to the Authorized Representative shall be binding upon Contractor. An Authorized Representative may be added, removed or changed upon prior written notice given pursuant to Section 12.18 titled "Written Notice".

5.3 Environmental, Safety and Health

5.3.1 Safety and Protection. Contractor shall be solely and exclusively responsible for conducting operations under this Contract to avoid risk of harm to the health and safety of persons and property and for inspecting, supervising and monitoring all equipment, materials (whether in storage on or off the Jobsite), work practices and safety precautions (including but not limited to adequate maintenance of traffic) used in the Services to ensure compliance with its obligations under this Contract. Contractor shall provide or cause to be provided necessary training and furnish all safety equipment/tools, including OSHA compliant and ANSI certified personal protective equipment as appropriate and necessary for the performance of the Services, to its subcontractors of every tier and enforce the use of such training and safety equipment/tools.

5.3.2 Compliance. Contractor shall comply with all Applicable Laws bearing on the safety of persons or property, or their protection from damage, injury or loss including compliance with applicable permits, plans and approvals. To the extent allowed by law, Contractor shall assume all responsibility and liability with respect to all matters regarding the safety and health of its employees and the employees of Contractor's subcontractors and suppliers of any tier, with respect to the Work.

5.4 Final Inspection and Testing

All equipment and materials furnished and Services performed shall be inspected and tested by Contractor at Contractor's expense. Contractor shall give the County Representative timely notice, at least 48 hours in advance, of readiness of the Services for required inspections, tests or approvals unless otherwise specified in the Contract Documents. Neither observations by the County nor inspections, tests, or approvals shall relieve Contractor from the Contractor's obligations to perform the Services in accordance with the Contract Documents. The County Representative will issue a Final Certificate for Payment following satisfactory inspection of the Services.

5.5 Final Payment

5.5.1 Upon Contractor's receipt of the Final Certificate for Payment, Contractor may submit a final invoice.

5.5.2 Acceptance of Final Payment shall constitute a waiver of all Claims against the County by Contractor except for those Claims previously made in writing against the County by Contractor, pending at the time of Final Payment, and identified in writing by Contractor as unsettled at the time of its request for Final Payment.

5.5.3 In the event Contractor fails to submit an invoice for Final Payment, or to resubmit a final invoice within ninety (90) days after being requested to do so, the County may deem any and all retained funds to be abandoned property and shall give notice of abandonment to Contractor. The County may set off against the final payment any amounts due to County from Contractor arising out of or under this or any other Contract or Contract between them.

ARTICLE VI COUNTY REPRESENTATIVE

6.1 County Representative Responsibilities

6.1.1 The County shall designate as its representative a County Representative. The County Representative shall be authorized to act on behalf of the County only to the extent provided in this Article VI.

6.1.2 The County and Contractor shall communicate with each other in the first instance through the County Representative.

6.1.4 The County Representative shall review Contractor's invoices and shall confirm to the County for payment to Contractor, those amounts then due to Contractor as provided in this Contract.

6.1.5 The County Representative shall have authority to reject Services, which is defective or does not conform to the requirements of this Contract. If the County Representative deems it necessary or advisable, the County Representative shall have authority to require additional inspection or testing of the Services for compliance with Contract requirements at Contractor's expense.

6.1.8 The County Representative shall, upon written request from Contractor, conduct inspections to determine the date of Final Completion, shall receive and forward to the County for the County's review and records, written warranties and related documents required by this Contract and shall issue a Final Certificate for Payment upon compliance with the requirements of this Contract.

6.1.9 The County Representative's decision in matters relating to aesthetic effect shall be final if consistent with the intent of this Contract.

ARTICLE VII CHANGES IN THE SERVICES

7.1 General

7.1.1 The County may, at any time, without invalidating this Agreement and without notice to sureties, unilaterally direct changes in the Services within the general scope of this Agreement, consisting of additions, deletions, revisions, or any combination thereof, by Change Order or by field order. Contractor agrees to promptly comply with such orders and proceed with the Services, which shall be performed under the applicable requirements of the Contract Documents.

7.1.2 If at any time Contractor believes that acts or omissions of the County constitute a change to the Services, Contractor shall, within five (5) days of such change or act or omission, submit a written notice to the County Representative explaining in detail the basis for the change request. Upon agreement as to the impact of the change or act or omission, the Contract Time and/or Contract Price shall be adjusted by written Change Order. **IT IS EXPRESSLY AND SPECIFICALLY AGREED THAT ANY AND ALL CLAIMS FOR CHANGES TO THE CONTRACT TIME OR CONTRACT PRICE SHALL BE WAIVED IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION.**

7.2 Acceptance of Change Orders

Contractor's written acceptance of a Change Order shall constitute a final and binding Contract to the provisions thereof and a waiver of all claims in connection therewith, whether direct, indirect, or consequential in nature.

ARTICLE VIII STOPPING WORK, ACCEPTING DEFECTIVE OR NONCONFORMING WORK

8.1 Right to Stop Services

If the quality of Services performed by the Contractor are unacceptable, or Contractor fails to supply sufficient skilled workers, suitable materials, or equipment or fails to furnish or perform the Services in such a way that conforms to the Contract Documents, the County, acting through the County Representative, may order Contractor to stop the Services, or any portion thereof, until the cause for such order has been eliminated. The County's right to stop Services, or any portion thereof, shall not give rise to any duty on the part of the County to exercise this right for the benefit of Contractor or any other party.

8.2 County May Accept Defective or Nonconforming Services

If the County chooses to accept defective or nonconforming Services, the County may do so. In such events, the Contract Price shall be reduced by the greater of (a) the reasonable cost of removing and correcting the defective or nonconforming Services, and (b) the difference between the fair market value of the Services had it not been constructed in such manner as

to include defective or nonconforming Services. If the remaining portion of the unpaid Contract Price, if any, is insufficient to compensate the County for its acceptance of defective or nonconforming Services, Contractor shall, pay the County such remaining compensation for accepting defective or nonconforming Services.

ARTICLE IX CONTRACT SUSPENSION AND TERMINATION

9.1 Suspension

The County may, by written notice, order Contractor to suspend, delay or interrupt the Services, in whole or in part, for a period of time as the County may determine.

9.2 Termination

9.2.1 The County may by written notice to Contractor terminate the Services under this Agreement in whole or in part at any time for the County's convenience or for the default of Contractor.

9.2.2 The County may terminate this Agreement, in whole or in part, for its convenience upon thirty (30) calendar days written notice to the Contractor. In the event of a termination for convenience, an equitable adjustment in the compensation to be paid to the Contractor shall be made based upon the cost for completed Services, and the substantiated, reasonable and actually incurred costs associated with termination, including amounts due in settlement of terminated contracts with Subcontractors and suppliers. No amount shall be allowed for anticipated profit or unperformed Services.

9.2.3 The county may terminate this Agreement, in whole or in part, for cause (or "default"). In the event of the Contractor's default, the County shall issue a Notice of Default to the Contractor, articulating the items which the County finds the Contractor to be in default of the requirements of the Contract Documents. Contractor shall have no less than ten (10) calendar days, as provided in the Notice of Default, from receipt of Notice of Default to remedy any and all deficiencies or to submit, in writing, an acceptable plan for remedying the deficiencies identified in said notice. If Contractor fails to remedy such deficiencies, or to submit an acceptable plan for remedying such deficiencies, to the satisfaction of the County within the stated time period, the County shall issue a Notice of Termination, providing no less than seven (7) calendar days notice of the effective termination of this Agreement. The County may, at its sole discretion, take over and prosecute the Services. In such case, Contractor shall be liable to the County for all reasonable additional costs incurred by the County in performance of the Services.

9.2.3.1 For purposes of this Termination provision, Contractor shall be deemed in default if Contractor (1) persistently or repeatedly refuses or fails to perform the Services in accordance with the Contract Documents, (2) fails to supply enough properly skilled Workers, supervisory personnel or proper equipment or materials, (3) fails to make prompt payment to Subcontractors, for materials or labor, (4) becomes insolvent or becomes the subject of voluntary or involuntary bankruptcy proceedings, (5) persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, or (6) breaches or violates a material provision of this Agreement.

9.2.4 Upon receipt of such termination notice Contractor shall immediately stop all Services and shall immediately cause any and all of its Subcontractors and material suppliers at any tier, to immediately stop all work, leaving the Jobsite(s) in a safe and secured condition. Contractor shall not be paid for any Services performed or costs incurred after the termination date that reasonably could have been avoided. The County may direct Contractor to assign Contractor's right, title and interest under terminated orders or subcontracts to its designee.

9.2.5 Contractor shall not remove from any Jobsite any materials, equipment, plant or tools that have been paid for by County pursuant to this Agreement. Contractor hereby grants the County a free and unimpeded right of access to Contractor's facilities, which shall survive any termination of the Contract, for the purpose of permitting the County to take control of the Services, including but not limited to any Services for which title has vested in the County.

ARTICLE X WARRANTY AND INDEMNITY

10.1 Warranty

10.1.1 Contractor warrants and guarantees to the County that all labor furnished to perform the Services under this Agreement shall be competent to perform the tasks undertaken and that the product of such labor shall yield only first-class results and that all materials and equipment furnished under this Agreement shall be of good quality, free from faults and defects and in strict conformance with the Contract Documents.

10.1.2 In the event that Contractor fails to perform its obligations under this Warranty Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the County, the County shall have the right to correct and replace any defective or non-conforming Services and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the County for any expenses incurred hereunder upon demand.

10.1.3 Failure on the part of the County to reject defective, non-conforming or unauthorized Services shall not release Contractor from its contractual obligations, be construed to mean acceptance of such Services or material by the County, bar the County from recovering damages or obtaining such other remedies as may be permitted by law.

10.2 Indemnity

10.2.1 Contractor shall indemnify and hold harmless the County and its officers and employees ("Indemnified Party"), from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

10.2.2 To the extent permitted by, and in accordance with Section 725.06 of the Florida Statutes, Contractor further agrees that "damages, losses and costs", includes fines, citations, court judgments, insurance claims, restoration costs or other liability, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of Contractor and persons employed or utilized by Contractor in the performance of this Agreement.

10.2.3 To the extent permitted by, and in accordance with Section 725.06 of the Florida Statutes, for purposes of indemnity, the "persons employed or utilized by Contractor" shall be construed to include, but not be limited to, Contractor, its staff, employees, subcontractors, all deliverers, suppliers, furnishers of materials or services or anyone acting for, on behalf of, or at the request of Contractor.

10.2.4 In Claims against any person or entity indemnified hereunder by an employee of Contractor, any Subcontractor, or subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 10.2 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for Contractor or any Subcontractor or subcontractor under any workers' compensation acts, disability benefits acts or other employee benefit acts.

10.2.5 Contractor's indemnity and hold harmless obligations hereunder shall extend to all Claims against the County by any third party or third-party beneficiary of this Contract and all liabilities, damages, losses and costs related thereto.

10.2.6 This indemnification will not be valid in the instance where the loss is caused by the gross negligence, or willful, wanton or intentional misconduct of any Indemnified Party.

10.2.7 If any provision(s), or portion(s) of a provision(s) of this Section, or the application thereof to any person or circumstance shall, to any extent, be held to be invalid, illegal or unenforceable for any reason whatsoever, the validity, legality and enforceability of the remaining provision(s), or part of the provision(s), shall not in any way be affected or impaired thereby; and shall be interpreted to the fullest extent possible to be enforceable and to give effect to the intent manifested by the provision(s), or portion(s) thereof, held invalid, illegal or unenforceable.

10.2.8 Contractor shall further indemnify and hold harmless the County its officers and employees from and against all Claims arising out of any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents and shall defend such Claims in connection with any alleged infringement of such rights.

10.2.9 The indemnification provisions of this Section 10.2 shall survive expiration or earlier termination of this Agreement.

ARTICLE XI INSURANCE

11.1 Contractor's Insurance Requirements

11.1.1 All insurance policies shall be satisfactory to the County and be issued by companies authorized and duly licensed to transact business in the State of Florida. Contractor shall furnish proof of insurance to the County prior to execution

of this Agreement. No Work shall commence under this Agreement until Contractor has obtained all insurance coverages required under this section. Certificates of insurance shall clearly indicate Contractor has obtained insurance of the type, amount, and classification as required by this Contract. Required insurance coverage shall be maintained in force, including coverage for Additional Insureds, until Final Completion of all Work including Warranty Work.

11.1.2 No less than ten (10) days written notice shall be provided to the County prior to cancellation, non-renewal or any material change of required insurance policies. Yearly renewal certificates shall be provided to the County within thirty (30) days of expiration of the current policy.

11.1.3 The types and amounts of insurance required under this Contract do not in any way limit the liability of Contractor including under any warranty or indemnity provision of this Contract or any other obligation whatsoever Contractor may have to the County or others. Nothing in this Contract limits Contractor to the minimum required insurance coverages found in this Article XI.

11.2 Additional Insured Endorsements and Certificate Holder

The term "Additional Insured", as used in this Contract, shall mean St. John's County, its elected officials, officers, employees, agents and representatives. Certificates of insurance shall specifically name each Additional Insured for all policies of insurance except Workers' Compensation. A copy of the endorsement showing the required coverages must accompany the certificate of insurance.

Certificate Holder Address: St. Johns County, a political subdivision of the State of Florida
500 San Sebastian View
St. Augustine, FL 32084
Attn: Purchasing

11.3 Workers Compensation & Employer's Liability

Contractor shall procure and maintain during the life of this Contract, adequate Workers' Compensation Insurance and Employer's Liability in at least such amounts as is required by law for all of its employees per Florida Statute 440.02.

11.4 Commercial General Liability

Contractor shall procure and maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate, including bodily injury (including wrongful death), property damage, products, personal & advertising injury, and completed operations. This insurance must provide coverage for all Claims that may arise from the services and/or operations completed under this Contract, whether such services or operations are by Contractor or anyone directly or indirectly employed by them. Such insurance(s) shall also be primary and non-contributory with regard to insurance carried by the Additional Insureds.

11.5 Automobile Liability

Contractor shall procure and maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$2,000,000 combined single limit for bodily injury and property damage liability and insuring liability arising out of or in any way related directly or indirectly to the ownership, maintenance or use of any owned, non-owned or rented/hired automobiles.

11.6 Other Requirements

The required insurance limits identified in Sections 11.4 above may be satisfied by a combination of a primary policy and/or Umbrella or Excess Liability Insurance policy. Contractor shall require each lower-tier subcontractor to comply with all insurance requirements appropriate for its scope of work, and any deficiency shall not relieve Contractor of its responsibility herein. Upon written request, Contractor shall provide County with copies of lower-tier subcontractor certificates of insurance.

Providing and maintaining adequate insurance coverage is a material obligation of Contractor. County has no obligation or duty to advise Contractor of any non-compliance with the insurance requirements contained in this Section. If Contractor fails to obtain and maintain all of the insurance coverages required herein, Contractor shall indemnify and hold harmless the Additional Insureds from and against any and all Claims that would have been covered by such insurance had Contractor complied with its obligations herein.

County reserves the right to adjust the above minimum insurance requirements or require additional insurance coverages to address other insurable hazards.

ARTICLE XII MISCELLANEOUS

12.1 Examination of Contractor's Records

The County or its authorized representative shall, until the expiration of five (5) years after final payment under this Contract, have access to, and the right to examine any directly pertinent books, documents, papers and records of Contractor involving transactions relating to this Contract, and to make copies, excerpts and transcriptions thereof. If any such examination reveals that Contractor has overstated any component of the Contract Price, Change Order, Claim, or any other County payment obligation arising out of this Contract, then Contractor shall, at the election of the County, either immediately reimburse to the County or offset against payments otherwise due Contractor, the overstated amount plus interest. The foregoing remedy shall be in addition to any other rights or remedies the County may have.

12.2 Backcharges

12.2.1 Upon the County's notification to undertake or complete unperformed Services such as cleanup or to correct defective or non-conforming services, equipment, or material (Backcharge Services), if Contractor states or by its actions indicates it is unable or is unwilling to immediately proceed and/or complete the Backcharge Services in an agreed time; the County may perform such Backcharge Services by the most expeditious means available and backcharge Contractor for any and all costs thereby incurred by the County.

12.2.2. The County shall separately invoice or deduct and retain from payments otherwise due to Contractor the costs for Backcharge Services. The County's right to backcharge is in addition to any and all other rights and remedies provided in this Contract or by law. The County's performance of the Backcharge Services shall not relieve Contractor of any of its responsibilities under this Agreement and Contractor shall be responsible for the Backcharge Services as if it were its own.

12.3 Applicable Laws and Regulations

Contractor and the Services performed under this agreement must comply with all Applicable Laws and the requirements of any applicable grant agreements.

12.4 Governing Law & Venue

The Contract shall be governed by the laws of the State of Florida. Venue for any administrative and/or legal action arising under the Contract shall be St. Johns County, Florida.

12.5 Assignment

Contractor shall not assign the Services or this Agreement, in whole or in part, without the prior written consent the County. Contractor shall be responsible for all Services performed under the Contract Documents. Contractor shall not sell, assign or transfer any of its rights, duties or obligations under the Contract, or under any Change Order issued pursuant to the Contract or make an assignment or transfer of any amounts payable to Contractor under the Contract, without the prior written consent of the County. In the event of any assignment, Contractor remains secondarily liable for performance of the Contract, unless the County expressly waives such secondary liability. The County may assign the Contract with prior written notice to Contractor of its intent to do so. This Contract may be assumed by and shall inure to the benefit of the County's successors and assigns without the consent of Contractor.

12.6 Severability

If a court deems any provision of this Agreement void, invalid or unenforceable, that provision shall be enforced only to the extent that it is not in violation of law or is not otherwise unenforceable and all other provisions shall remain in full force and effect.

12.7 Section Headings

The section and other headings contained in this Agreement are for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

12.8 Disclaimer of Third-Party Beneficiaries

This Contract is solely for the benefit of County and Contractor and no right or cause of action shall accrue to or for the benefit of any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any person or entity other than County and Contractor, any right, remedy, or Claim under or by reason of this Agreement or any provisions or conditions hereof; and all of the provisions, representations, covenants and conditions herein contained shall inure to the sole benefit of and shall be binding upon County and Contractor.

12.9 Waiver; Course of Dealing

The delay or failure by the County to exercise or enforce any of its rights or remedies under this Contract shall not constitute or be deemed a waiver of the County's right thereafter to enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the parties to this Agreement after the Effective Date shall not be deemed a waiver or modification of this Agreement.

12.10 No Waiver of Sovereign Immunity

Nothing herein is intended to serve as a waiver of sovereign immunity by any agency or political subdivision to which sovereign immunity may be applicable or of any rights or limits to liability existing under Section 768.28, Florida Statutes. This section shall survive the termination of all performance and obligations under this Agreement and shall be fully binding until such time as any proceeding brought on account of this Agreement is barred by any applicable statute of limitations.

12.11 Execution in Counterparts

This Agreement may be executed in counterparts, each of which shall be an original document, and all of which together shall constitute a single instrument. The parties may deliver executed counterparts by e-mail transmission, which shall be binding. In the event this Agreement is executed through a County-approved electronic signature or online digital signature service (such as DocuSign), such execution shall be valid, effective and binding upon the party so executing. Execution and delivery of an executed counterpart of this Agreement and/or a signature page of this Agreement by electronic image scan transmission (such as a "pdf" file) or through a County approved electronic signature service will be valid and effective as delivery of a manually executed counterpart of this Agreement.

12.12 Entire Contract

This Agreement, together with the Contract Documents for the Services, constitutes the entire Contract between County and Contractor relating to the subject matter hereof and supersedes all prior or contemporaneous Contracts, negotiations, discussions and understandings, oral or written. This Agreement may not be amended or modified except in writing signed by both parties.

12.13 Survival

The provisions of the Contract Documents which by their nature survive termination of this Agreement, including without limitation all warranties, indemnities, insurance, payment obligations, and the County's right to audit Contractor's books and records, shall in all cases survive the expiration or earlier termination of this Agreement.

12.14 Employment Eligibility and Mandatory Use of E-Verify

As a condition precedent to entering into this Agreement, and in accordance with section 448.095, F.S., Contractor and its subcontractors shall register with and use the E-Verify system to verify the work authorization status of all employees hired on or after January 1, 2021.

- a. Contractor shall require each of its subcontractors to provide Contractor with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. Contractor shall maintain a copy of such affidavit for the duration of this Agreement.
- b. The County, Contractor, or any subcontractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated section 448.09(1), F.S. or these provisions regarding employment eligibility shall terminate the contract with the person or entity.
- c. The County, upon good faith belief that a subcontractor knowingly violated these provisions regarding employment eligibility, but Contractor otherwise complied, shall promptly notify Contractor and Contractor shall immediately terminate the contract with the subcontractor.

- d. The County and Contractor hereby acknowledge and mutually agree that, a contract terminated pursuant to these provisions regarding employment eligibility is not a breach of contract and may not be considered as such. Any contract terminated pursuant to these provisions regarding employment eligibility may be challenged in accordance with section 448.095(2)(d), F.S.
- e. Contractor acknowledges that, in the event that the County terminates this Agreement for Contractor's breach of these provisions regarding employment eligibility, then Contractor may not be awarded a public contract for at least one (1) year after such termination. Contractor further acknowledges that Contractor is liable for any additional costs incurred by the County as a result of the County's termination of this Agreement for breach of these provisions regarding employment eligibility.
- f. Contractor shall incorporate in all subcontracts made pursuant to this Agreement the provisions contained herein regarding employment eligibility.

12.15 Equal Employment Opportunity

During the performance of this Agreement, Contractor agrees as follows:

12.15.1 Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, disability, age, sex (including sexual orientation and gender identity/expression), national origin (including limited English proficiency), marital status, or familial status. Contractor will take affirmative action to ensure that applicants and employees are treated during employment without regard to their race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, genetic information or political affiliation. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertisement, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

12.15.2 Contractor will, in all solicitations or advertisements for employees placed for, by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, disability, sex, age, national origin, ancestry, marital status, sexual orientation, gender identity or expression, familial status, or genetic information.

12.15.3 Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with Contractor's legal duty to furnish information.

12.15.4 Contractor will send to each labor union or representatives of workers with which it has a collective bargaining Contract or other contract or understanding, a notice to be provided by the County, advising the labor union or workers' representative of Contractor's commitments under Section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

12.15.5 Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

12.15.6 Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records, and accounts by the County and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

12.15.7 In the event of Contractor's noncompliance with the nondiscrimination clauses of this Agreement or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended in whole or in part and Contractor

may be declared ineligible for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

12.15.8 Contractor will include the provisions of paragraphs 12.15.1 through 12.15.8 in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. Contractor will take such action with respect to any subcontractor or vendor as may be directed to the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, Contractor may request the United States to enter into such litigation to protect the interest of the United States.

12.16 Public Records

12.16.1 Contractor shall comply and shall require all of its Subcontractors to comply with the State of Florida's Public Records Statute (Chapter 119), specifically to:

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the Services;
- (2) Upon request from the County's custodian of public records, provide the County 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 as provided in Chapter 119, Florida Statutes, or as otherwise provided by Applicable Law;
- (3) Ensure that public records related to this Contract that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by Applicable Law for the duration of this Agreement and following expiration of this Contract, or earlier termination thereof, if Contractor does not transfer the records to the County; and
- (4) Upon completion of this Agreement, or earlier termination thereof, transfer, at no cost, to the County all public records in possession of Contractor or keep and maintain for inspection and copying all public records required by the County to perform the Work.

12.16.2 If Contractor, upon expiration of this Agreement or earlier termination thereof: i) transfers all public records to the County, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements; and ii) keeps and maintains public records, Contractor shall meet all Applicable Law and requirements for retaining public records. All records stored electronically must be provided to the County, upon request from the County's custodian of public records, in a format that is compatible with the County's information technology systems.

12.16.3 Failure by Contractor to comply with the requirements of this section shall be grounds for immediate, unilateral termination of this Agreement by the County.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: (904) 209-0805, PUBLICRECORDS@SJCFI.US, 500 SAN SEBASTIAN VIEW, ST. AUGUSTINE, FLORIDA 32084

12.17 Anti-Bribery

Contractor and its Subcontractors shall at all times during the term of this Agreement comply with all anti-bribery and corruption laws that are applicable to the performance of this Agreement. Contractor represents that it has not, directly or indirectly, taken any action which would cause it to be in violation of Chapter 838 of the Florida Statutes. Contractor shall immediately notify the County of any violation (or alleged violation) of this provision.

12.18 Convicted and Discriminatory Vendor Lists, and Scrutinized Companies

12.18.1 Contractor warrants that neither it nor any Subcontractor is currently on the convicted vendor list or the discriminatory vendor list maintained pursuant to Sections 287.133 and 287.134 of the Florida Statutes, or on any similar list maintained by any other state or the federal government. Contractor shall immediately notify the County in writing if its ability to perform is compromised in any manner during the term of the Contract.

12.18.2 Section 287.135 of the Florida Statutes prohibits agencies from contracting with companies for goods or services that are on the Scrutinized Companies that Boycott Israel List, or with companies that are engaged in a boycott of Israel, and from contracting with companies for goods or services of \$1,000,000 or more that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations in Cuba or Syria. The lists are created pursuant to §215.473 and §215.4725, F.S. By execution of this Agreement, Contractor certifies that it is not listed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria, and understands that pursuant to §287.135, F.S., the submission of a false certification may subject Contractor to civil penalties, attorney's fees, and/or costs. In accordance with §287.135, F.S., the County may terminate this Agreement if a false certification has been made, or the Contractor is subsequently placed on any of these lists, or engages in a boycott of Israel or is engaged in business operations in Cuba or Syria.

12.19 Written Notice

Any and all notices, requests, consents, approvals, demands, determinations, instructions, and other forms of written communication under this Agreement shall be validly given when delivered as follows:

- i. Hand delivered to Contractor's Authorized Representative or hand delivered during normal business hours and addressed as shown below, or
- ii. Delivered by U.S. Mail, electronic mail or commercial express carrier, (postage prepaid, delivery receipt requested), to the following addresses:

St. Johns County
500 San Sebastian View
St. Augustine, FL 32084
Attn: Assistant Director, Purchasing & Contracts
Email Address: jlocklear@sjcfl.us

St. Johns County Council on Aging, Inc
180 Marine Street
St. Augustine, FL 32084
Attn: Executive Director
Email Address: byanni@stjohnscoa.com

With a copy to:

St. Johns County
Office of the County Attorney
500 San Sebastian View
St. Augustine, FL 32084
Email Address: dmigut@sjcfl.us

Notices shall be deemed to have been given on the date of delivery to the location listed above without regard to actual receipt by the named addressee. County and Contractor may each change the above addresses at any time upon prior written notice to the other party.

The authorized representatives hereto have executed this Contract effective as of the Effective Date. Contractor's authorized representative executing this Contract represents that he or she is duly authorized to execute this Contract on behalf of Contractor.

County

St. Johns County (Seal)
(Typed Name)

By: _____
(Signature of Authorized Representative)

Jaime T. Locklear
(Printed Name)

Assistant Director, Purchasing & Contracts
(Title)

(Date of Execution)

Contractor

St. Johns County Council on Aging, Inc (Seal)
(Typed Name)

By: _____
(Signature of Authorized Representative)

(Printed Name)

(Title)

(Date of Execution)

ATTEST:
St. Johns County, Fl
Clerk of Circuit Court & Comptroller

By: _____
(Deputy Clerk)

(Date of Execution)

Legally Sufficient:

(Office of County Attorney)

(Date of Execution)

RFP No: 22-10R; Management and Operations of St. Johns County Transit System
General Services Agreement No: _____
Exhibit A

REQUIRED FTA CONTRACT CLAUSES

BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)

49 CFR Part 661

The **CONTRACTOR** agrees to comply with 49 U.S.C. 5323(j) and 49 CFR Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 CFR 661.7, and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, microcomputer equipment, software, and small purchases (currently less than \$100,000) made with capital, operating, or planning funds. Separate requirements for rolling stock are set out at 5323(j)(2)(C) and 49 CFR 661.11. Rolling stock not subject to a general waiver must be manufactured in the United States and have a 60 percent domestic content.

A bidder or offer must submit to the FTA recipient the appropriate Buy America certification (below) with all bids on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq. 49

CFR Part 41

The **CONTRACTOR** agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The **CONTRACTOR** also agrees to ensure that all work performed under this contract including work performed by a subcontractor complies with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 C.F.R. part 622, subpart C

The **CONTRACTOR** agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the State energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

CLEAN WATER REQUIREMENTS

33 U.S.C. 1251

The **CONTRACTOR** agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office. The **CONTRACTOR** also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

LOBBYING
31 U.S.C. § 1352
2 C.F.R. § 200.450
2 C.F.R. part 200 appendix II (J)
49 C.F.R. part 20

The undersigned **CONTRACTOR** certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a member of congress, an officer or employee of congress, or an employee of a member of congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in Paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325
18 CFR 18.36 (i)
49 CFR 633.17

In accordance with 49 C.F.R. 633.17, the **CONTRACTOR** agrees to provide the purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving Federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$100,000.

a. Record Retention. The Contractor will retain, and will require its subcontractors of all tiers to retain, complete and readily accessible records related in whole or in part to the contract, including, but not limited to, data, documents, reports, statistics, sub-agreements, leases, subcontracts, arrangements, other third-party agreements of any type, and supporting materials related to those records.

b. Retention Period. The Contractor agrees to comply with the record retention requirements in accordance with 2 C.F.R. § 200.333. The Contractor shall maintain all books, records, accounts and reports required under this Contract for a period of at not less than three (3) years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case records shall be maintained until the disposition of all such litigation, appeals, claims or exceptions related thereto.

c. Access to Records. The Contractor agrees to provide sufficient access to FTA and its contractors to inspect and audit records and information related to performance of this contract as reasonably may be required.

d. Access to the Sites of Performance. The Contractor agrees to permit FTA and its contractors' access to the sites of performance under this contract as reasonably may be required.

FEDERAL CHANGES
49 CFR Part 18

The **CONTRACTOR** shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the agreement (Form FTA MA (24) dated October 1, 2017) between purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. **CONTRACTOR's** failure to so comply shall constitute a material breach of this contract.

BONDING REQUIREMENTS

Applicability to Contracts

For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

b. A performance bond on the part to the **CONTRACTOR** for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

c. A payment bond on the part of the **CONTRACTOR** for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from **CONTRACTOR's** are as follows:

(1) 50% of the contract price if the contract price is not more than \$1 million;

(2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(3) \$2.5 million if the contract price is more than \$5 million.

d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

CLEAN AIR
42 U.S.C. 7401-7671 et seq
33 U.S.C. §§ 1251-1387
2 C.F.R. part 200, Appendix II (G)

The **CONTRACTOR** agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The **CONTRACTOR** agrees: it will not use any violating facilities; to report each violation to the purchaser and understands and agrees that the purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office; it will report violations of use of prohibited facilities to FTA; and it will comply with the inspection and other requirements of the Clean Air Act, as amended, (42 U.S.C. §§ 7401 – 7671q); and the Federal Water Pollution Control Act as amended, (33 U.S.C. §§ 1251-1387). The **CONTRACTOR** also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

RECYCLED PRODUCTS

42 U.S.C. 6962

40 CFR Part 247

Executive Order 12873

These regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

The **CONTRACTOR** agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

40 U.S.C. §§ 327 -333 (1999)

29 C.F.R. § 5 (1999)

29 C.F.R. § 1926 (1998)

Pursuant to Section 102 (Overtime):

These clauses are specifically mandated under DOL regulation 29 C.F.R. § 5.5 and when preparing a construction contract in excess of \$2,000 these clauses should be used in conjunction with the Davis-Bacon Act clauses

(1) Overtime Requirements

No **CONTRACTOR** or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; Liability for Unpaid Wages; Liquidated Damages

In the event of any violation of the clause set forth in paragraph (1) of this section the **CONTRACTOR** and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such **CONTRACTOR** and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in Paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for Unpaid Wages and Liquidated Damages

St Johns County, the recipient of federal funds, shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the **CONTRACTOR** or subcontractor under any such contract or any other Federal contract with the same prime **CONTRACTOR**, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime **CONTRACTOR**, such sums as may be determined to be necessary to satisfy any liabilities of such **CONTRACTOR** or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in Paragraph (2) of this section.

(4) Subcontracts

The **CONTRACTOR** or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime **CONTRACTOR** shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

(Section 102 non-construction contracts should also have the following provision:)

(5) Payrolls and Basic Records

(i) Payrolls and basic records relating thereto shall be maintained by the **CONTRACTOR** during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the **CONTRACTOR** shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. **CONTRACTOR's** employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

Section 107 (OSHA):

Contract Work Hours and Safety Standards Act

(i) The **CONTRACTOR** agrees to comply with section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. Section 333, and applicable DOL regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the **CONTRACTOR** agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions.

Subcontracts - The **CONTRACTOR** also agrees to include the requirements of this section in each subcontract. The term "subcontract" under this section is considered to refer to a person who agrees to perform any part of the labor or material requirements of a contract for construction, alteration or repair. A person who undertakes to perform a portion of a contract involving the furnishing of supplies or materials will be considered a "subcontractor" under this section if the work in question involves the performance of construction work and is to be performed: (1) directly on or near the construction site, or (2) by the employer for the specific project on a customized basis. Thus, a supplier of materials which will become an integral part of the construction is a "subcontractor" if the supplier fabricates or assembles the goods or materials in question specifically for the construction project and the work involved may be said to be construction activity. If the goods or materials in question are ordinarily sold to other customers from regular inventory, the supplier is not a "subcontractor". The requirements of this section do not apply to contracts or subcontracts for the purchase of supplies or materials or articles normally available on the open market.

NO GOVERNMENT OBLIGATION TO THIRD PARTIES

1) The purchaser and **CONTRACTOR** acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the purchaser, **CONTRACTOR**, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The **CONTRACTOR** agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801 et seq.

49 CFR Part 31 18 U.S.C. 1001

49 U.S.C. 5307

(1) The **CONTRACTOR** acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies", 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying contract, the **CONTRACTOR** certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the **CONTRACTOR** further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the **CONTRACTOR** to the extent the Federal Government deems appropriate.

(2) The **CONTRACTOR** also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The **CONTRACTOR** agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

GOVERNMENT-WIDE DEBARMENT AND SUSPENSION (NONPROCUREMENT)

2 C.F.R. part 180

C.F.R part 1200

2 C.F.R. § 200.213

2 C.F.R. part 200 Appendix II (I)

Executive Order 12549

Executive Order 12689

The Contractor shall comply and facilitate compliance with U.S. DOT regulations, "Nonprocurement Suspension and Debarment," 2 C.F.R. part 1200, which adopts and supplements the U.S. Office of Management and Budget (U.S. OMB) "Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement)," 2 C.F.R. part 180. These provisions apply to each contract at any tier of \$25,000 or more, and to each contract at any tier for a federally required audit (irrespective of the contract amount), and to each contract at any tier that must be approved by an FTA official irrespective of the contract amount. As such, the Contractor shall verify that its principals, affiliates, and subcontractors are eligible to participate in this federally funded contract and are not presently declared by any Federal department or agency to be:

- a) Debarred from participation in any federally assisted Award;
- b) Suspended from participation in any federally assisted Award;
- c) Proposed for debarment from participation in any federally assisted Award;
- d) Declared ineligible to participate in any federally assisted Award;
- e) Voluntarily excluded from participation in any federally assisted Award; or
- f) Disqualified from participation in any federally assisted Award.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by the AGENCY. If it is later determined by the AGENCY that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 2 C.F.R. part 180, subpart C, as supplemented by 2 C.F.R. part 1200, while this offer is valid and throughout the period of any contract that may arise from this offer. The

bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

PRIVACY ACT

5 U.S.C. 552

Contracts Involving Federal Privacy Act Requirements

The following requirements apply to the **CONTRACTOR** and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The **CONTRACTOR** agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5

U.S.C. § 552a. Among other things, the **CONTRACTOR** agrees to obtain the express consent of the Federal Government before the **CONTRACTOR** or its employees operate a system of records on behalf of the Federal Government. The **CONTRACTOR** understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The **CONTRACTOR** also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

CIVIL RIGHTS REQUIREMENTS

29 U.S.C. § 623, 42 U.S.C. § 2000

42 U.S.C. § 6102, 42 U.S.C. § 12112

42 U.S.C. § 12132, 49 U.S.C. § 5332

29 CFR Part 1630, 41 CFR Parts 60 et seq.

Civil Rights

The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the **CONTRACTOR** agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the **CONTRACTOR** agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the **CONTRACTOR** agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the project. The **CONTRACTOR** agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with Section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the **CONTRACTOR** agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the **CONTRACTOR** agrees to comply with

any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the **CONTRACTOR** agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the **CONTRACTOR** agrees to comply with any implementing requirements FTA may issue.

(3) The **CONTRACTOR** also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

BREACHES AND DISPUTE RESOLUTION

2 C.F.R. § 200.326

2 C.F.R. part 200, Appendix II (A)

FTA Circular 4220.1F

Disputes

Disputes arising in the performance of this contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of **ST JOHNS COUNTY**. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the **CONTRACTOR** mails or otherwise furnishes a written appeal to St. Johns County Administration. In connection with any such appeal, the **CONTRACTOR** shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the St. Johns County Administration shall be binding upon the **CONTRACTOR** and the **CONTRACTOR** shall abide by the decision.

Performance During Dispute

Unless otherwise directed by **ST JOHNS COUNTY**, the **CONTRACTOR** shall continue performance under this contract while matters in dispute are being resolved.

Claims for Damages

Should either party to the contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefore shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies

Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between **ST JOHNS COUNTY** and the **CONTRACTOR** arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which **ST JOHNS COUNTY** is located.

Rights and Remedies

The duties and obligations imposed by the contract documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by **ST JOHNS COUNTY**, or **CONTRACTOR** shall constitute a waiver of any right or duty afforded any of them under the contract, nor shall any such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

St Johns County has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the US Department of Transportation (DOT), 49 CFR Part 26. The County has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the County has signed an assurance that it will comply with 49 CFR Part 26. It is the policy of the County to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in DOT assisted contract. It is also our policy:

- To ensure nondiscrimination in the award and administration of DOT assisted contracts;
- To create a level playing field on which DBEs can compete fairly for DOT assisted contracts; To ensure that the DBE Program is narrowly tailored in accordance with applicable law:
- To ensure that only firms that fully meet 49 CFR Part 26 eligibility standard are permitted to participate as DBEs;
- To help remove barriers to the participation of DBEs in DOT assisted contract: and
- To assist the development of firms that can compete successfully in the market place outside the DBE Program.

St Johns County has not set a specific goal for this project. The agency's overall goal for DBE participation for the period October 1, 2019-September 30, 2021 is 1.2%. This goal represents those elements of work under this Contract performed by qualified Disadvantaged Business Enterprises for amounts totaling not less than 3.1% of the total Contract price. Failure to meet the stated goal at the time of proposal submission may render the Bidder/Offeror non-responsive.

If the bidder is DBE certified they must submit a state of Florida Department of Transportation Disadvantaged Business Enterprise (DBE) Certification. If the bidder is not a DBE firm the contractor entering into an agreement for this project must meet the following criteria:

1. Achieve the DBE participation GOAL as specified, or
2. Submit documentation detailing the Good Faith Efforts made in researching potential DBE Firms.

AMERICANS WITH DISABILITIES ACT (ADA)

Federal Protections for Individuals with Disabilities. The Americans with Disabilities Act of 1990, as amended (ADA), 42 U.S.C. Sections 12101 *et seq.*, prohibits discrimination against qualified individuals with disabilities in programs, activities, and services, and imposes specific requirements on public and private public and private entities. Third party contractors must comply with their responsibilities under Titles I, II, III, IV, and V of the ADA in employment, public services, public accommodations, telecommunications, and other provisions, many of which are subject to regulations issued by other Federal agencies.

INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS

FTA Circular 4220.1F

Incorporation of Federal Transit Administration (FTA) Terms

The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in **FTA Circular 4220.1F**, dated April 15, 1996, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The **CONTRACTOR** shall not perform any act, fail to perform any act, or refuse to comply with any St Johns County requests which would cause St Johns County to be in violation of the FTA terms and conditions.

TERMINATION

49 U.S.C. Part 18

FTA Circular 4220.1F

Applicability to Contracts

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be affected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Flow Down

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

Termination for Convenience (General Provision) The COUNTY may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the County's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to St. Johns County to be paid the Contractor. If the Contractor has any property in its possession belonging to St. Johns County, the Contractor will account for the same, and dispose of it in the manner St. Johns County directs.

Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the AGENCY may terminate A-70 this contract for default. Termination shall be effected by serving a Notice of Termination on the Contractor setting forth the manner in which the Contractor is in default. The Contractor will be paid only the contract price for supplies delivered and accepted, or services performed in accordance with the manner of performance set forth in the contract. If it is later determined by the AGENCY that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the AGENCY, after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a Termination for Convenience.

Compliance with Uniform Administrative Requirements
2 C.F. R. Part 200

The Contractor agrees to comply with all uniform administrative requirements, cost principles, and audit requirements for Federal awards as described in 2 C.F. R. Part 200.

Public Transportation Employee Protective Arrangements
49 U.S.C. § 5333(b) ("13(c)")
29 C.F.R. part 215

The Contractor agrees to comply with the following employee protective arrangements of 49 U.S.C. § 5333(b):

1. U.S. DOL Certification. Under this Contract or any Amendments thereto that involve public transportation operations that are supported with federal assistance, a certification issued by U.S. DOL is a condition of the Contract.

2. Special Warranty. When the Contract involves public transportation operations and is supported with federal assistance appropriated or made available for 49 U.S.C. § 5311, U.S. DOL will provide a Special Warranty for its Award, including its Award of federal assistance under the Tribal Transit Program. The U.S. DOL Special Warranty is a condition of the Contract.

3. Special Arrangements. The conditions of 49 U.S.C. § 5333(b) do not apply to Contractors providing public transportation operations pursuant to 49 U.S.C. § 5310. FTA reserves the right to make case-by-case determinations of the applicability of 49 U.S.C. § 5333(b) for all transfers of funding authorized under title 23, United States Code (flex funds), and make other exceptions as it deems appropriate, and, in those instances, any special arrangements required by FTA will be incorporated herein as required.

Charter Service
49 U.S.C. 5323(d) and (r)
49 C.F.R. part 604

The contractor agrees to comply with 49 U.S.C. 5323(d), 5323(r), and 49 C.F.R. part 604, which provides that Recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except as permitted under: 1. Federal transit laws, specifically 49 U.S.C. § 5323(d); 2. FTA regulations, "Charter Service," 49

C.F.R. part 604; 3. Any other federal Charter Service regulations; or 4. Federal guidance, except as FTA determines otherwise in writing.

The contractor agrees that if it engages in a pattern of violations of FTA's Charter Service regulations, FTA may require corrective measures or impose remedies on it. These corrective measures and remedies may include: 1. Barring it or any subcontractor operating public transportation under its Award that has provided prohibited charter service from receiving federal assistance from FTA; 2. Withholding an amount of federal assistance as provided by Appendix D to part 604 of FTA's Charter Service regulations; or 3. Any other appropriate remedy that may apply. The contractor should also include the substance of this clause in each subcontract that may involve operating public transit services.

School Bus Operations
49 U.S.C. 5323(f)
49 C.F.R. part 605

The contractor agrees to comply with 49 U.S.C. 5323(f), and 49 C.F.R. part 604, and not engage in school bus operations using federally funded equipment or facilities in competition with private operators of school buses, except as permitted under:

1. Federal transit laws, specifically 49 U.S.C. § 5323(f);
2. FTA regulations, "School Bus Operations," 49 C.F.R. part 605
3. Any other Federal School Bus regulations; or Federal guidance, except as FTA determines otherwise in writing.

If Contractor violates this School Bus Agreement, FTA may:

1. Bar the Contractor from receiving Federal assistance for public transportation; or
2. Require the contractor to take such remedial measures as FTA considers appropriate.

When operating exclusive school bus service under an allowable exemption, the contractor may not use federally funded equipment, vehicles, or facilities.

The Contractor should include the substance of this clause in each subcontract or purchase under this contract that may operate public transportation services.

RFP No: 22-10R; Management and Operations of St. Johns County Transit System

General Services Agreement No: _____

Exhibit B

Contractor's Cost/Price Proposal

Contractor's shall perform the required Services within the anticipated annual costs as provided below for each year of this Agreement. In the event the actual costs exceed the proposed budget for any given year, Contractor shall submit information to the County Representative providing backup documentation as to the factors impacting the operation which cause the costs to exceed the amount(s) provided below.

Annual Cost Budget Line Items	Year 1		Year 2		Year 3	
	Deviated Fixed Route	Demand Response	Deviated Fixed Route	Demand Response	Deviated Fixed Route	Demand Response
Driver Salaries	\$739,833	\$475,036	\$747,231	\$479,786	\$754,852	\$484,679
Admin Salaries (Managers, Outreach, Safety & Security)	\$272,155	\$210,290	\$274,876	\$213,012	\$282,496	\$217,905
Utilities	\$26,125	\$24,116	\$26,236	\$24,218	\$33,856	\$29,110
Insurance	\$197,498	\$182,306	\$199,473	\$184,129	\$207,093	\$189,022
Payroll Service	\$1,564	\$1,444	\$1,580	\$1,459	\$1,596	\$1,473
Supplies	\$34,219	\$29,116	\$34,561	\$29,407	\$42,182	\$34,300
Staff Recruitment & Training	\$7,243	\$6,686	\$7,315	\$6,753	\$7,389	\$6,820
Travel	\$1,383	\$1,277	\$1,397	\$1,289	\$1,411	\$1,302
10% Indirect	\$128,002	\$93,027	\$129,267	\$94,005	\$133,808	\$96,461
Preventive Maintenance	\$122,577	\$81,718	\$123,803	\$82,535	\$125,041	\$83,361
Total Costs	\$1,530,601	\$1,105,016	\$1,545,740	\$1,116,593	\$1,589,003	\$1,144,434
Combined Totals	\$2,635,616		\$2,662,334		\$2,733,437	

Annual Cost Budget Line Items	Year 4		Year 5	
	Deviated Fixed Route	Demand Response	Deviated Fixed Route	Demand Response
Driver Salaries	\$762,548	\$489,621	\$770,322	\$494,612
Admin Salaries (Managers, Outreach, Safety & Security)	\$290,193	\$222,847	\$297,966	\$227,838
Utilities	\$41,552	\$34,052	\$49,326	\$39,043
Insurance	\$214,790	\$193,964	\$222,563	\$198,955
Payroll Service	\$1,612	\$1,488	\$1,628	\$1,503
Supplies	\$49,878	\$39,241	\$57,652	\$44,233
Staff Recruitment & Training	\$7,463	\$6,888	\$7,537	\$6,957
Travel	\$1,425	\$1,316	\$1,440	\$1,329
10% Indirect	\$136,946	\$98,942	\$140,843	\$101,447
Preventive Maintenance	\$126,291	\$84,194	\$127,554	\$85,036
Total Costs	\$1,632,700	\$1,172,553	\$1,676,831	\$1,200,953
Combined Totals	\$2,805,252		\$2,877,784	



St. Johns County Board of County Commissioners

Purchasing Division

NOTICE OF INTENT TO AWARD

August 25, 2022

RE: RFP 22-10R; Management and Operation of St. Johns County Transit System

St. Johns County, FL hereby issues this Notice of Intent to Award a contract, upon successful negotiations, to St. Johns County Council on Aging, Inc., as the top ranked firm, based upon evaluation of submitted Proposals under RFP No: 22-10R.

Any actual Bidder, Proposer, or Supplier who is aggrieved in connection with the Notice of Intent to Award a Contract (Protestor), where such grievance is asserted to be the result of a violation of the requirements of the St. Johns County Purchasing Policy, and associated procedures, or any applicable provision of law by the officers, agents, or employees of the County, may file a Protest to the Assistant Director of Purchasing & Contracts. The Protest shall be made in writing and filed with the Purchasing Division by 4:00PM on the fifth business day following the date of the posting of the Notice of Intent to Award, and must be accompanied by a Protest Bond in accordance with Section 13.2 of the SJC Purchasing Policy.

Should the County receive no Protest in response to this notice, in accordance with the SJC Purchasing Policy, the County will proceed with negotiations, and submittal of the negotiated Contract to the Board of County Commissioners for approval to execute.

Please forward all correspondence, requests or inquiries directly to Mr. Greg Lulkoski, Procurement Coordinator at glulkoski@sjcfl.us or 904-209-0156.

Sincerely,
St. Johns County, FL
Board of County Commissioners
Purchasing Division

A handwritten signature in black ink, appearing to read "Jaime T. Locklear".

County Representative Signature
Jaime T Locklear, MBA, NIGP-CPP, CPPB, CPPO
Assistant Director, Purchasing & Contracts
(904) 209-0158 – Direct
jlocklear@sjcfl.us

Date: 8/25/2022