



Agreement RFP #2020C-01
Between
Florida State College at Jacksonville
and

- 1.0 This Request for Proposal agreement #2020C-01 for HVAC Delivery Order/Job Order Contracting Services hereinafter referred to as "Agreement", is made this _____ day of _____ (month), 20_____, by and between Florida State College at Jacksonville with its principle address at 501 West State Street, Jacksonville, FL 32202-4068, a political subdivision of the State of Florida, hereinafter referred to "Owner" and _____ with its principle address at _____, Florida _____, , a private for profit corporation, (Federal ID# _____) hereinafter referred to as "Contractor".

Pursuant to Florida Statute 112.313(7) and OWNER Board Rule # 6Hx 7-2.9 (4) "Personnel Responsibilities Outside Scope of Employment" "No employee (including part time employees, or adjunct employees) shall sell any product or service to the Owner Board except as may be specified in the employee's position responsibilities at the College." Contractor attests no Owner employees are also employees of Contractor.

2.00 WITNESS:

Whereas "OWNER" has five (5) campuses in Duval county; and whereas "OWNER" issued a Request for Proposal number 2020C-01 for HVAC Delivery Order/Job Order Contracting Services and whereas "CONTRACTOR" submitted a written formal Request for Proposal response proposal #2020C-01 on **June 4, 2019** and whereas "OWNER" evaluation committee has reviewed submission(s) received and recommends for this agreement "CONTRACTOR" as a top ranked proposer and now therefore, for and in consideration of the mutual covenants, agreements, and conditions herein, and in "OWNER's" Request for Proposal number 2020C-01 and "CONTRACTOR's" proposal #2020C-01 which is attached and incorporated by reference, it is mutually agreed by and between the parties as follows:

3.00 TERM:

Term/ Termination:

- This agreement is for an initial term commencing on or about **September 1, 2019** or on the date both parties authorized officers sign this Agreement and will continue for twelve (12) months until **August 31, 2020** to timely complete the defined SOW deliverables defined herein and includes a reserved option to be renewed under mutually agreed to rates, terms, conditions and additional SOW.
- This Agreement shall have the option to be extended for up to **five (5) additional terms of one (1) year(s) each**. Extension of this agreement is subject to mutual agreement, continued need, satisfactory performance, same terms and conditions. Continuation of this agreement beyond any fiscal year end (i.e., June 30th) is subject to State of Florida continued adequate appropriation to "OWNER", by the State of Florida Legislature, and District Board of Trustee

approval of extension. In the event that the agreement(s), resulting from the award of this RFP shall terminate or be likely to terminate prior to the making of an award for a new agreement for the identified services as long as the accumulative maximum amount of \$6,000,000 has NOT been reached; the College may notify Contractor(s) in writing at least sixty (60) calendar days prior to the expiration date of the agreement, and with the written consent of the Contractor(s), extend the agreement(s) for such comparable period of time as may be necessary to permit the College's to re-solicit for the continued supply of the identified services.

4.00 CONTROLS:

This indefinite quantity agreement shall:

- Contractor shall comply with all requirements defined in RFP #2020C-01.
 - Where the Contractor does not have the capability or the time to complete the work required under this RFP 'IN HOUSE', sub-contracting will be permitted only with the prior knowledge and approval of the College. Therefore, the name of any sub-contractor(s) contemplating for the use will be included on each project proposal submitted with the proposed sub-contractor licensure authorizing the ability to perform the assigned work. This process is needed so that the College can be assured and in agreement that the Sub-contractor(s) can complete the work to the desired quality and in a timely manner.
 - All requested project proposals must be submitted in the format and priced in accordance with RFP #2020C-01, Section 5.901 (Lot #1: Local R.S. Means Formula Co-Efficient Pricing) AND Section 5.902 (Lot #2: Discounted Labor Rates and Material Costs) and to include requested time to complete project proposed in Section 5.50.
 - **Lot #2 priced projects cannot be utilized** for any project in which Federal Funding OR FEMA 2 C.F.R. Part 2 Appendix II and C.F.R. Part 3002 requirements would be applicable.
 - Contractor and Sub-contracted employees shall wear a uniform identifying the firm they represent. The College reserves the right to exclude anyone from entry into College proper for noncompliance with this requirement.
 - Each project will have a maximum per funded purchase order (job/project) price **not to exceed \$350,000 with a maximum capped term period expenditure of \$1,000,000.**
 - All individual projects awarded against this contract would require a Duval County recorded 100% performance and payment bond issued by a surety licensed to do business in the State of Florida. The bonds along with the appropriate power of attorney shall be delivered to the Executive Director, Purchasing no later than 7 calendar days after receipt of notice of award of the project/job.
- a. The validity, interpretation and enforcement of this Agreement shall be governed by the laws of the State of Florida without conflict of laws rules. Venue for any dispute arising from this Agreement shall only be in Duval County, Florida.
 - b. Notwithstanding the foregoing, Owner shall have no obligation to issue orders, if the Contractor is in default or breach under this agreement; the Florida Legislature fails to appropriate or allot necessary funds; or "OWNER" is prevented from so doing by reason of unusually inclement weather, strikes, labor disputes, fire, war and acts of war, riots and acts of the public enemy, acts of God, or any other reason reasonably beyond the control of the "OWNER", regardless of whether such causes was reasonably anticipatable; or if Contractor fails, declines, or is unable to perform any of the work described by any Purchase Order or statement of work agreed to by "OWNER" during the term of this agreement.

- c. "CONTRACTOR" shall provide a continuous on-site work force during regular working hours, until scheduled project completion. The contractor shall make every effort to prevent interference with the daily activities of the building occupants during the project. For the purpose of this RFP, regular working days are defined as between 6:00 a.m. and 5:00 p.m., Monday through Friday except on College observed holidays unless other arrangements are approved by the College in advance such as during winter or spring break.
- d. "CONTRACTOR" shall guarantee all contractor supplied materials and workmanship for all projects assigned for a minimum period of one (1) year from date of delivery and remedy any resulting defects/failures at their own expense within three (3) work days after any malfunctioning equipment has been called to their attention.
- e. A minimum of one (1) year warranty is needed on all satisfactory work performed during which time "CONTRACTOR" will repair/replace defective/malfunctioning work completed.
- f. "CONTRACTOR" shall maintain all records, quotes, invoices, and associated documentation for a period not less than five years after termination of this agreement and make available to the "OWNER" or its auditors at no cost reasonable access to said quotes, invoices, documents, records, etc.
- g. No deliveries are to be made or services provided thereunder until funded purchase orders are issued by the purchasing department. All such orders will cite the basic agreement number and will include price, terms and delivery provisions as set forth therein. Invoicing will be made in accordance with the agreement and instructions contained in the funded purchase orders.
- h. The quantities set forth herein are estimates only and are based upon past experience. The college cannot guarantee, therefore, that the entire quantity of any or all items will be ordered during the period of the agreement. Conversely, during the period of the agreement, the college reserves the right, as necessary, to order quantities in excess of the estimated quantities at agreement prices.

5.00 DEFAULT:

Either party may serve written Notice of Default to the defaulting party providing the defaulting party fourteen (14) calendar days to cure the conditions of default and, if still uncorrected after said fourteen (14) days written notice, this agreement may be terminated upon three (3) work days' notice thereof.

5.10 TERMINATION:

In addition to termination provisions based on default defined above, either party shall retain the right to terminate this agreement without cause by providing ninety (90) calendar days written notice.

This agreement includes provisions for either party to terminate this agreement upon serving ninety (90) calendar days written notice without cause where OWNER will be responsible to pay for all professional services rendered prior to receipt of notice of termination.

OWNER further reserves the right to terminate this agreement upon seven (7) calendar days notice if it does not continue to receive adequate appropriations from the State of Florida Legislature.

6.00 SCOPE OF WORK:

The Contractor shall:

- a. Provide qualified contractors employees to perform all HVAC delivery order contracting services as defined in individually issued Purchase Order project assignments.
- b. Be an “independent contractor” providing all required equipment, materials, tools, necessary labor, and etc. services for the various types of HVAC/Mechanical services in the College’s buildings, facilities and property for the work to be performed as specified on each issued Purchase Order.
- c. Proposer shall sell FSCJ only OEM new and unused parts as required.
- d. Maintain all insurance as specified in Special Condition #8.01 and provide and maintain for all terms of the agreement.
- e. Maintain all required licensures authorizing work of this scope as listed RFP #2020C-01 Section 5.117.
- f. At all times guard from damage or loss of property of the College or of other contractors or sub-contractors and shall replace or repair any loss or damage unless such be caused by the College, other contractors or sub-contractors. The College may withhold payment or make such deductions as it might deem necessary to insure reimbursement for loss or damage to property through negligence of the Contractor or his agents.
- g. The Contractor shall comply with the trench safety standard, where relevant, in accordance with the Trench Safety Act sections 553.60 through 553.64., F.S.
- h. Be responsible for the prompt removal of all debris resulting from his delivery.
- i. At all times keep the construction area, including storage areas used by the Contractor, free from accumulations of waste material or rubbish and prior to completion of the work, remove any rubbish from the premises and all tools, scaffolding, equipment, and materials not the property of the College. Upon completion of the construction, the Contractor shall leave the work and premises in a clean, neat and as original condition satisfactory to the College.

6.10 PROCEDURE OF HANDLING:

- a. Individual College departments will identify scope of work and communicate said desired scope of work to their campus maintenance supervisor and/or their campus Director of Campus Operations (DCO).
- b. The DAS will review the desired scope of work and communicate with the College’s facilities department about the request form to include defining a project contact person name and phone number.
- c. The campus department will contact CONTRACTOR local project manager and provide same a copy of any work request where a quotation/proposal is required. Contractor is to schedule, if possible, a site visit with the end user/DCO and plant superintendent.
- d. CONTRACTOR will provide a written proposal estimate using defined fixed cost indices/coefficients defined in this agreement within the timelines defined in Section #8.00 of this agreement. The written proposal shall notate the names of any subcontractors proposed as well as their license numbers, whether they are W/MBE owned as well as provide copies of their licenses.

- e. The facilities department will if possible meet with the end user/contact person, campus DAS to review the written proposal submitted, and issue a College building permit (if needed).
- f. The end user/DAS will forward to the purchasing construction buyer a copy of the CONTRACTOR written quotation/proposal and all supporting documentation including subcontractor licenses noting the requisition number on it. The online department requisition for a PO will use a type of "CO".
- g. In accordance with FS 255.103, for compliance of FS 255.20 and SREF Section 4.2(2) projects equal to or greater than \$300,000, the FSCJ contracted Architect/Engineer drawings and specifications must be referenced on any proposal in which scope of work is to be performed. The FSCJ contracted Architect/Engineer name in which provided drawings, specification and construction administration must also notated.
- h. Purchasing will issue a separate purchase order for each delivery order, upon receipt from CONTRACTOR of a 100% performance and payment bond for all delivery order PO's equal to or greater than \$200,000, which will be provided within 7 business days of request.
- i. Purchasing will forward said PO to CONTRACTOR.
- j. CONTRACTOR shall await receipt of said OWNER PO before commencing any work.
- k. The College Associate Vice President for Facilities with the Executive Director for Purchasing shall retain the right to direct CONTRACTOR to commence work that is of an emergency nature/safety to life without a PO, where a PO will follow within 7 business days.
- l. Material Supplies and Equipment - Owners Sales Tax Exemption: Contractor shall include in solicitations of subcontractor bids in accordance with RFP 2020C-01 Attachment I herein regarding sales tax exemption where bidders would include in their bid all administrative costs including sales tax. Contractor from time to time would recommend to the College that it purchase raw materials / equipment directly on an OWNER Purchase Order (PO) net of State of Florida sales tax by submitting a tax agreement signed by the subcontractor and completed manual Requisition for tax saving direct purchases (refer to Exhibit "B" of Attachment I). The College, in turn, would do a deductive change order to Contractor PO equal to the value of the raw materials plus the sales tax saved.
 1. In all cases the parties will attempt to identify materials of significant cost that can be purchased without the payment of sales taxes. Significant cost is defined for these purposes as an amount of materials or equipment in excess of \$5,000 per Purchase Order. The parties agree to use their best efforts to identify these items prior to the signing of a particular delivery order.
 2. If an item has been identified as suitable for tax exempt purchase prior to the signing of the delivery order, the procedure shall be as follows:
 - Owner shall purchase the item directly using its own purchase order after the Contractor has completed and signed the requisition/tax agreement(s) as per Exhibit A and Exhibit B of Attachment I.
 3. In those cases, the items identified shall be purchased so as to comply with Florida law regarding tax exempt purchases.

4. If an item has not been identified for tax exempt purchase prior to the signing of the delivery order, then the procedure shall be as follows:
 - Contractor may designate an item as suitable for tax exempt purchase.
 - Upon notice to Owner both parties will determine, by agreement, whether the item shall be purchased by the Owner so as to be tax exempt.
 - Within five (5) business days of notification, the parties shall agree whether the tax exempt purchase shall be initiated.
 - Upon agreement, the parties will initiate a tax exempt purchase in compliance with Florida law, where Owner will be responsible for builders' risk/loss up until the raw materials/equipment is incorporated into the project.
 - When the tax exempt purchase is completed, the amount of money due to contractor shall be reduced by the cost of the item, plus applicable sales tax.
 - If either party determines that the item should not be purchased in a tax exempt manner, then the purchase of the item will be made by the Contractor as contemplated in the delivery order.
 - If Owner delays in making a decision about the tax exempt purchase or delays in the completion of the forms necessary to complete the purchase, then the delay in purchase shall excuse timely performance by Contractor to the extent of the delay.
5. In no case shall Owner pay Contractor the cost of any item, or the tax associated with its purchase, if Owner has directly purchased the item under its tax exempt authority.

7.00 TERMS AND CONDITIONS:

- a. "OWNER's" Purchasing Department will forward said PO to "CONTRACTOR" upon receipt from "CONTRACTOR" of all required documents: insurance certificate, licensures, payment and performance bond (when applicable), and signed agreement.
- b. "CONTRACTOR" shall await receipt of said "OWNER's" PO before commencing any work. Unfunded annual requirement contract(s) will be awarded to the successful contractor(s). No deliveries are to be made or services provided thereunder each fiscal year until funded purchase orders are issued by the College purchasing department. All such orders will cite the basic contract number and will include price, terms and delivery provisions as set forth therein. Invoicing will be made in accordance with the instructions contained in the funded purchase orders.
- c. "CONTRACTOR" shall accept a written Notice of Intent to issue a Purchase Order or other written notification authorizing "CONTRACTOR" to proceed from the Executive Director for Purchasing, or designee, should the project be deemed of an extremely time sensitive or of an emergency nature/safety to life in which awaiting receipt of said "OWNER's" Purchase Order is not feasible before commencing any work.
- d. ALTERNATE FUNDING SOURCE REQUIREMENTS: Whenever applicable, the "CONTRACTOR" will adhere to all applicable Federal, State, and local ordinances, to include, but not limited to:
 - Federal Civil Rights Act of 1964
 - Immigration Reform and Control Act of 1986

State of Florida Workers' Compensation Act
 Davis-Bacon Act
 Occupational Health and Safety Act
 Environmental Protection Agency Laws
 Florida Environmental Protection Division Regulations
 Florida Department of Transportation Regulations
 Copeland Anti-Kick Back Act
 FEMA 2 C.F.R. Part 2 Appendix II and C.F.R. Part 3002

NOTE: The subsequent contract for Lot #1 to the RFP can be utilized for any project in which FEMA 2 C.F.R. Part 2 Appendix II and C.F.R. Part 3002 requirement would be applicable. Contractor will be notified at the time of proposal request of special funding sources and if additional documentation will be required.

DOES NOT APPLY TO LOT #2 PRICING PROPOSAL REQUESTS

8.00 TIME FRAME/RESPONSE TIME:

- a. As defined in "CONTRACTOR" RFP #2020C-01 and "CONTRACTOR's proposal #2020C-01 the following not to exceed schedule:
- b. "CONTRACTOR's" management approach to the response plan procedures offers the optimum combination of key elements in the successful delivery of timely performance through use of experienced qualified personnel, extensive quality control program, adequate resources, material availability, and advanced scheduling. "CONTRACTOR" has developed the management systems, expertise, and human resources necessary to minimize delays due to subcontractor and material availability; meet defined schedules; manage increased work loads; and stay on schedule for multiple task order contacts.
- c. "CONTRACTOR" commits to completion of the scope of work within the described number of days as defined in the issuance of a College funded Purchase Order for each project assigned.
- d. As defined in CONTRACTOR proposal #2020C-01, Section 5.50 the following not to exceed schedule shall prevail: The project management team will organize a series of activities for their proposal response plan. This response plan is organized by delivery order classification: normal, urgent, or emergency.

Delivery Order Response Plan:

PROJECT ACTIVITIES	ROUTINE/NORMAL RESPONSE STATUS	FAST TRACK / URGENT RESPONSE STATUS	*EMERGENCY RESPONSE STATUS
Project Scope Visit			
Design/Estimate			
Schedule			
Project Negotiations			
Notice to Proceed			

(Note: * Response Status is defined as a time line of the amount of time in terms of working days beginning at the time of the notification of the delivery order.

**In situations where safety, health, and property are at risk, the College will request an emergency response status in the amount of hours to have your staff arrive on campus from notification of emergency.

9.00 COST/RATES:

- a. CONTRACTOR and OWNER shall utilize the latest R.S. Means cost data and the City of Jacksonville cost index weighted average for establishing individual pricing/proposals under this contract.
- b. CONTRACTOR shall utilize the following fixed co-efficients for all terms of this contract as defined in CONTRACTORS proposal #2020C-01:

HOURS	PROJECTS < \$200,000	PROJECTS \$200,000 - \$350,000
Standard Work Hours 6:00 am – 6:00 pm (M-F) Excluding College holidays		
Non-Standard Work Hours (other than 6:00 am – 6:00 pm M-F) Excluding College holidays		

9.10 NON PRE-PRICED ITEMS:

Work for which no line item is available through the indices above shall be priced as follows:

- a. First preference shall be to try and “build” the work using line items available in the indices.
- b. Contractor to get (3) quotes and award to lowest responsive bidder(s) and require provided supervision less than \$200,000:

On a Non Pre-Priced Item(s) (NPI)/ Owner Directed Item(s) (ODI) project(s) involving multiple trades , contractor will charge cost plus	%
On a Non Pre-Priced Item (s) (NPI)/Owner Directed Item(s) (ODI) projects (s) involving a single trade , contractor will charge cost plus	%

- c. Contractor to get (3) quotes and award to lowest responsive bidder(s) and require provided supervision greater than or equal to \$200,000 and < \$350,000 with 100% performance and payment bond:

On a Non Pre-Priced Item(s) (NPI)/ Owner Directed Item(s) (ODI) project(s) involving multiple trades , contractor will charge cost plus	%
On a Non Pre-Priced Item (s) (NPI)/Owner Directed Item(s) (ODI) projects (s) involving a single trade , contractor will charge cost plus	%

- d. Non-pre-priced items (NPI)/Owner directed items (ODI) projects involving one single source/supplier for the entire project and do not require contractor provided supervision.

NPI/ODI: Work > \$200,000 with bond , Contractor to obtain (3) quotes and priced at low bidder meeting specifications plus	%
NPI/ODI: Work < \$200,000 without bond , Contractor to obtain (3) quotes and priced at low bidder meeting specifications plus	%

9.20 ESTIMATING SOFTWARE AND INDICES:

CONTRACTOR shall purchase and maintain at its cost the following software for its office (including CONTRACTOR provided training) during all terms of this agreement:

- a. R.S. Means Facilities Construction Cost Database (latest most current year edition) (Bare Cost Column)
- b. Costworks estimating software.

CONTRACTOR and OWNER shall utilize the latest R.S. Means Construction Cost Data catalogs (6001-7), and/or (#6002-7 Mechanical Cost Data), and/or (#6004-7 Repair and Remodeling Cost Data) and the latest City of Jacksonville cost index weighted average (i.e. 0.857) for establishing individual pricing/proposals under this agreement.

10.00 MEETINGS/AUDITS:

A meeting consisting of management representative from both parties shall meet initially prior to beginning any individual project to discuss the status of work as needed but not less than monthly through the project duration until "Owner" has accepted the project completion, which would include "CONTRACTOR" submitting status report(s). This requirement can be adjusted as the needs of both parties' dictate. This shall not prohibit more frequent meetings as desired. The intent of this agreement is to more expeditiously furnish related services to College customers. To this end, this agreement may be formally modified in writing when mutually agreeable to by both parties.

10.10 DRAWING QUALITY:

In cases where the College does not provide drawings as described in RFP #2020C-01, the Contractor will be responsible to develop and obtain college sign off on minimal design drawings that would be typical of a design development stage (35%) as described by the AIA. The Contractor will ensure that each design meets specifications, appropriate codes, industry standards, government regulations and laws. The typical minimal design drawings will not require the services of a registered architect or engineer. In cases where the College requires design drawings in more detail than the design development stage or if the services of a registered architect or engineer are required, prices for these services will be negotiated using Sections 010-004 and 010-028 of the R.S. Means Facilities Construction Cost.

10.20 CONTRACTORS DISASTER RECOVERY PROPOSAL :

Contractors proposed disaster recovery proposal is as per Attached Exhibit "___" (as per "CONTRACTOR" proposal section #5.40 of RFP 2020C-01.

11.00 MINORITY BUSINESS UTILIZATION:

"CONTRACTOR" shall invite (where known) 25% of all subcontractor/ subconsultant firms on any job to be those that are greater than 51% women or minority owned and State of Florida licensed contractors. The Contractor shall quarterly furnish to the "OWNER'S" purchasing office a listing of all minority (including women owned or small business) subcontractors used. This listing shall include both certified and non-certified minority vendors. Contractor shall include the name of the subcontract firm, their address and define the trade/services (i.e., electric, plumbing, drillers, etc.) provided and the dollar amount of services rendered during the past quarter.

12.00 INVOICING:

As per the RFP, invoices shall be submitted no more frequently than once a month. "OWNER" will remit payment within 40 calendar days after satisfactory completion of defined deliverables and receipt of an accepted invoice. Both parties will agree to an application and certificate process for payment and a modified schedule of values for payment.

In accordance with Florida Statute 255.078, the College will hold 10% retainage on projects/Purchase Orders equal to or greater than \$200,000. Contractor(s) will be allowed to invoice the College (against College Purchase Orders) as work is completed, no more frequently than monthly, where the 10% retainage would be held until 50-percent of the total project/Purchase Order has been completed. After 50-percent completion of the project/Purchase Order pursuant to the contract, the amount of retainage withheld from each subsequent progress payment made to the Contractor(s) will be reduced to 5-percent until the completion and College acceptance of the project/job. For purposes of this section, the term "50-percent completion" has the meaning set forth in the contract between the College and the contractor as the point at which the College has expended 50 percent of the total cost of the construction services purchased as identified in the project/Purchase Order together with all costs associated with existing change orders and other additions or modifications to the construction services provided for in the project/Purchase Order.

13.00 LAWS, REGULATIONS AND RULES:

"CONTRACTOR" shall comply with all laws, ordinances, rules and regulations, whether federal, state or local, applicable to the operation of its business including compliance with Federal Affirmative Action/Equal Employment Opportunity regulations. While on campus premises, "CONTRACTOR" shall comply with "OWNER" policies and shall at all times conduct its business safely in accordance with recognized standards in the trade.

Contractor acknowledges and agrees to fully comply with Owners 100% Tobacco Free Use Policy on any Owner Campus or Center grounds.

14.00 INDEMNIFICATION:

Contractor shall indemnify, release, defend and hold harmless OWNER from all claims, liabilities, damages, suits, causes of action or judgments including, but not limited to, OWNER's reasonable costs and attorneys' fees, arising out of the negligent acts Contractor's or its sub-contractors, arising out of or in connection with its obligations under this Agreement.

15.00 INSURANCE:

During all terms-of this Agreement, "CONTRACTOR" shall, at its sole cost and expense, maintain worker's compensation insurance as required by law, and other specified insurance on an occurrence basis in an amount equal to the limits as defined in "OWNER" proposal #2020C-01, Supplementary Conditions Paragraph 7. "Contractor" shall provide a certificate of insurance listing the District Board Of Trustees, 501 West State Street, Jacksonville, FL 32202, of Florida State College at Jacksonville as additionally insured before services shall commence and confirming that before any cancellation modification or reduction in coverage of such policies, the insurance company shall give thirty (30) days prior written notice to "OWNER" of such proposed cancellation, modification or reduction. Any fees charged by the insurance company for issuing certificates or notification to "OWNER" shall be the responsibility of "Contractor". All such insurance policies is to be placed with an insurer rated A or better by A.M.

The Contractor shall provide Owner and maintain for all terms of this agreement a certificate of insurance listing the Owner District Board of Trustees as an additionally insured for both General Liability and Professional Errors and Omissions Insurance.

16.00 OWNER IS A POLITICAL SUBDIVISION OF THE STATE OF FLORIDA / LIMITED LIABILITY:

The parties hereto acknowledge and agree OWNER is a political subdivision of the State of Florida. As such, OWNER performance under this agreement and any amendments hereto or attachments connected herewith, shall at all times be subject to any and all federal /state laws/ regulations and District Board of Trustee Rules which are applicable to the College's operations, commitments and/or activities in furtherance of any terms specified herein. The parties acknowledge that OWNER's performance under this Agreement is subject to the provisions and limitations of Section 768.28, F. S. (the provisions and limitations of which are not waived, altered, or expanded by anything herein). Furthermore, nothing contained herein shall be construed or interpreted as: (i) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (ii) the consent of the OWNER to be sued; or (iii) a waiver of sovereign immunity of the OWNER beyond the waiver provided in Section 768.28, F. S. As OWNER is a political subdivision of the State of Florida, this Agreement is subject to the applicable provisions of Florida Statutes regarding public access and other issues.

This Agreement is executed and entered into in the State of Florida, and shall be construed, performed and enforced in all respects in accordance with the Florida law including Florida provisions for conflict of law.

"CONTRACTOR" acknowledges that OWNER, as a political subdivision of the State of Florida is subject to the provisions of Chapter 119, Florida Statutes regarding public access to records. A proposer will not be allowed to designate its entire submittal as confidential. The proposer is required to cite/reference the specific Florida statutes exempting specific portions of submission from public disclosure.

Proposals, or replies received by the College pursuant to this solicitation will remain confidential and are exempt from Florida's Public Records Act (Ch. 119, Florida Statutes) until such time as the College provides notice of an intended decision or until 30 days after opening the bids, proposals, or final replies, whichever is earlier. Thereafter, by submitting a response to this solicitation, the proposer acknowledges that all documents and information submitted to the College, including pricing information, is considered a public record under Florida's Public Records Act and may be disclosed to third parties upon request notwithstanding any confidentiality clauses or labels contained in such documents. Please direct any inquires to the College contact listed herein.

Contractor shall be in full compliance with public records laws in regard to access to public records as stated in Florida Statute 119.0701 (2) (a) through (d) and defined below for contracts for services with a public agency for which it is acting on behalf of the public agency as provided under Florida Statute 119.011(2)

In addition to other contract requirements provided by law, the Contractor shall:

- a) Keep and maintain public records that ordinarily and necessarily would be required by Florida State College at Jacksonville in order to perform the service.
- b) Provide the public with access to public records on the same terms and conditions that Florida State College at Jacksonville would provide the records and at a cost that does not exceed the cost provided in chapter 119, FS, or as otherwise provided by law.
- c) Ensure that public records that are exempt of confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

- d) Meet all requirements for retaining public records and transfer, at no cost, to Florida State College at Jacksonville all public records in possession of the Contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosures requirements. All records stored electronically must be provided Florida State College at Jacksonville in a format that is compatible with Florida State College at Jacksonville technology systems.

If a Contractor does not comply with a public records request, the Florida State College at Jacksonville shall enforce the contract provisions in accordance with the contract.

Contractor shall notify the College designated contact each time it receives a public records request for public records Contractor has in its possession.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS (THE OWNER CONTRACT ADMINISTRATOR) AT THE ADDRESS AND PHONE NUMBER BELOW.

17.00 RELATIONSHIP:

"CONTRACTOR" is an independent contractor acting in its own behalf, and nothing contained in this Agreement shall be construed to make "CONTRACTOR" a partner, employee, agent, joint venturer, dealer or franchisee of "OWNER". This agreement does not call for College personnel and "CONTRACTOR" personnel to work together on any project. If it has subsequently been determined that if this situation may arise, the relationship between the "CONTRACTOR" and College personnel will be clearly defined within the scope of work whereby Contractor shall at all times remain an independent contractor. This relationship shall cause close coordination between the "OWNER" and "CONTRACTOR" and may be subject to change as both sides agree. Under no circumstances shall any College employee work at any time as an employee of "CONTRACTOR".

18.00 GENERAL:

- a. Requests and other communications from any of the parties to the other shall be given in writing and shall be considered to have been duly given or served if sent by United States Certified first-class mail, addressed to the respective party at its address set forth below in the "Notices" Section or to such other address as such party may hereafter designated by written notice to the other party.
- b. If any provision herein shall be deemed or declared unenforceable, invalid or void, the same shall not impair any of the other provisions contained herein which shall be enforced in accordance with their respective terms. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF FLORIDA AND ANY PROCEEDINGS RELATING TO OR FOR THE ENFORCEMENT HEREOF SHALL BE BROUGHT IN FEDERAL OR STATE COURTS LOCATED IN DUVAL COUNTY IN THE STATE OF FLORIDA. "CONTRACTOR" CONSENTS AND SUBMITS TO THE JURISDICTION OF SAID COURTS AND AGREES THAT SERVICE OF PROCESS MAY BE MADE BY PUBLICATION BY REGISTERED OR CERTIFIED MAIL, OR IN ANY MANNER PROVIDED UNDER FLORIDA OR APPLICABLE FEDERAL LAW. Any legal action by either of the parties against the other shall be brought within two (2) calendar years of the date the cause of action first arose. In the event a legal proceeding is brought, the prevailing party shall be entitled to recover all of its costs and expenses including reasonable attorney's fees and costs.

- c. Terms not defined in the body of this Agreement shall have the meaning ascribed to them in the Attachments, Exhibits (if any). This writing is intended by the parties as the final and binding expression of their Agreement, is complete and exclusive of the terms thereof and supersedes all prior negotiations, representations and agreements, and includes "OWNER's" RFP number 2020C-01 and "CONTRACTOR's" proposal #2020C-01 by reference.

19.00 ASSIGNMENT AND SUBLETTING:

- a. "CONTRACTOR" shall neither assign nor transfer this Agreement or any right or leasehold interest granted to it by this Agreement without the written consent of "OWNER", such consent not to be unreasonably withheld. Provided, however, "CONTRACTOR" may assign and transfer this Agreement in its entirety without such consent to any successor-in-interest of "CONTRACTOR" with or into which "CONTRACTOR" may merge or consolidate or which may succeed to the assets of "CONTRACTOR" or a major portion thereof related to "OWNER" business. No such assignment or sublease shall serve to release "CONTRACTOR" from any of its obligations, duties or responsibilities under this Agreement unless "OWNER" agrees thereto in writing. Any such sublease shall be in writing and promptly upon the execution thereof, "CONTRACTOR" shall furnish a copy to "OWNER". Any change of ownership involving 25% or more of the outstanding voting share of "CONTRACTOR" shall be considered a transfer of this Agreement.
- b. This Agreement shall be binding upon and inure to the benefit of "CONTRACTOR" and "OWNER" and their respective successors and permitted assigns. This Agreement may not be directly or indirectly assigned, transferred, delegated, subcontracted or sublicensed, in whole or in part by "CONTRACTOR", without the prior written consent of "OWNER". In the event "CONTRACTOR" is a partnership, corporation, limited liability company or other entity, the transfer in one transaction, or a series of transactions, of fifty percent (50%) or more of the aggregate equity or voting control of sub-licensee shall constitute an assignment of this Agreement.
- c. In submitting a proposal to "OWNER", "CONTRACTOR" offers and agrees that if the proposal is accepted, the "CONTRACTOR" will convey, sell, assign, or transfer to "OWNER" all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of Florida for pricing fixing relating to the particular commodities or services purchased or acquired by "OWNER". At the "OWNER'S" discretion, such assignment shall be made and become effective at the time the "OWNER" tenders final payment to the "CONTRACTOR".

20.00 SUCCESSORS AND ASSIGNS BOUND:

This agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto, where permitted by this agreement.

21.00 NOTICES:

Notices required herein may be given by registered or certified mail by depositing the same in the U.S. Mail in the continental United States, postage prepaid. Any such notice so mailed shall be presumed to be received by the addressee seventy-two (72) hours after deposit of the same in the mail. Either party shall have the right, by giving written notice to the other, to change the address at which it's notices are to be received. Until any such change is made, notices to "OWNER" shall be delivered as follows:

"OWNER"
Randi Brokvist
Executive Director of Purchasing
501 W. State Street
Jacksonville, FL 32202
(904) 632-3294

Notices to "CONTRACTOR" shall be deemed sufficient if in writing and mailed, (registered or certified), postage prepaid, addressed to "CONTRACTOR" as

"CONTRACTOR"
Attn: _____
Company: _____
Street: _____
City, State, Zip: _____
Phone Number: (_____) _____
Email: _____

If notice is given in any other manner or at any other place, it will also be given at the place and in the manner specified above.

This agreement is entered into by both parties authorized officers.

"CONTRACTOR"
Name: _____
Street: _____

City, State, Zip: _____

Federal ID: _____

BY: _____

Print Name: _____

Title: _____

Date: ____/____/____

Witnessed BY: _____

Name: _____

Title: _____

"OWNER"
Florida State College
at Jacksonville
501 West State Street
Jacksonville, FL 32202

Federal ID # 59-1149317

BY: _____

Randi Brokvist

Executive Director of Purchasing

Date: ____/____/____

Witnessed BY: _____

Name: _____

Title: _____

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Florida State College at Jacksonville does not discriminate against any person on the basis of race, color, ethnicity, genetic information, national origin, religion, gender, marital status, disability, or age in its programs or activities. Inquiries regarding the non-discrimination policies may be directed to the College's Equity Officer, 501 West State Street, Jacksonville, Florida 32202 | (904) 632-3221 | equityofficer@fscj.edu.

Florida State College at Jacksonville is accredited by the Southern Association of Colleges and Schools Commission on Colleges to award the baccalaureate and associate degree. Contact the Commission on Colleges at 1866 Southern Lane, Decatur, Georgia 30033-4097, or call (404) 679-4500 for questions about the accreditation of Florida State College at Jacksonville. The Commission is to be contacted only if there is evidence that appears to support an institution's significant non-compliance with a requirement or standard.

SAMPLE