

RESOLUTION NO. 2019 - 340

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO EXECUTE A CONTRACT WITH TYLER TECHNOLOGIES FOR SOFTWARE DEVELOPMENT, IMPLEMENTATION, AND ANNUAL SUPPORT UNDER RFP NO. 19-10 FOR ST. JOHNS COUNTY GROWTH MANAGEMENT – ELECTRONIC PERMITTING, PLAN REVIEW & INSPECTION SYSTEM (EPPRIS).

RECITALS

WHEREAS, the County desires to enter into contract with Tyler Technologies for the provision of software and implementation services for Electronic Permitting, Plan Review, and Inspection System (EPPRIS) to provide the County with the capability of simultaneous reviews across departments and agencies resulting in a more efficient review system, as needed in accordance with RFP No. 19-10; and

WHEREAS, the scope of the services will be to provide any and all labor, materials, equipment, transportation, and supervision necessary for an Electronic Permitting, Plan Review, and Inspection System (EPPRIS) in accordance with RFP No. 19-10; and

WHEREAS, through the County's formal RFP process, Tyler Technologies was selected as the highest ranked respondent to enter into contract with the County to perform the work referenced above; and

WHEREAS, on April 16, 2019 the Board of County Commissioners of St. Johns County, Florida approved Resolution 2019-140 authorizing the County Administrator, or designee, to enter into negotiations with Tyler Technologies and to bring the contract back to the Board of County Commissioners for approval to provide the scope of services as specifically provided in RFP 19-10; and

WHEREAS, the County reviewed the terms, provisions, conditions and requirements of the negotiated contract, and finds that entering into contract to complete the work services serves a public purpose; and

WHEREAS, the contract will be finalized after board approval.

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 enter into contract with Tyler Technologies to provide the scope of services specifically provided in RFP No. 19-10.

Section 3. 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.

1 PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida, this day of October, 2019.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: Paul M. Waldron
Paul M. Waldron, Chair

ATTEST: Hunter S. Conrad, Clerk

By: Sam Halterman
Deputy Clerk

RENDITION DATE 10/3/19





CONTRACT AGREEMENT
RFP NO: 19-10 – St. Johns County Growth Management –
Electronic Permitting, Plan Review & Inspection System (EPPRIS)
Master Contract #: [redacted] MCC-TYL-10950

This Contract Agreement, (“Agreement”) is made as of this _____ day of _____, 2019, (“Effective Date”), by and between **St. Johns County, FL** (“County” or “Client”), a political subdivision of the State of Florida, with principal offices located at 500 San Sebastian View, St. Augustine, FL 32084, and **Tyler Technologies, Inc.** (“Contractor” or “Tyler”), authorized to do business in the State of Florida, with offices located at 2160 Satellite Blvd., Ste. 300, Duluth, GA 30097.

In consideration of the mutual promises contained herein, the County and the Contractor agree as follows:

ARTICLE 1 - PURPOSE

St. Johns County Growth Management Department provides Permitting, Plan Review and Inspection Review for all projects located on public and private property in the County including all associated trade permits for both residential and commercial projects. Building Services, a division of the Growth Management Department, also licenses all building and trade professionals working within the County and coordinates all projects requiring architectural, civil and building plans as a component of the building permit process. Growth Management also reviews and approves both Residential Subdivisions and Commercial Plans, Commercial Construction Plans, Rezoning, Comprehensive Plan Amendments, Special use permits, variances, and other development requests. Currently architects/developers are required to submit at least two (2) and as many as nine (9) hard copy sets of signed and sealed development and building plans for the review and approval by as many as thirty (30) different departments/agencies in order for the County to issue development approval and building permits for proposed projects. Building plans are currently reviewed individually by one department/agency at a time which delays the review process. With the implementation of an EPPRI System, the County would be able to conduct a coordinated Electronic Permitting, Plan Review and Inspection System component of the development approval and building permit process both intra-departmentally and with all other County departments and/or agencies. The County and the Contractor desire to enter into this Agreement to provide software and implementation services for an Electronic Permitting, Plan Review, and Inspection System (EPPRIS) in accordance with the terms and conditions of this Agreement to provide the County with the capability of simultaneous reviews across departments and agencies resulting in a more efficient review system.

ARTICLE 2 – ENUMERATION AND INCORPORATION OF CONTRACT DOCUMENTS

This Agreement shall consist of this Contract Agreement, the Software as a Service Addendum attached hereto, and the Contract Documents (hereafter collectively referred to as the “Agreement”). The term “Contract Documents” shall include the following:

- Exhibit A Investment Summary
- Exhibit B Invoicing and Payment Policy
Schedule 1: Business Travel Policy
- Exhibit C Service Level Agreement
Schedule 1: Support Call Process
- Exhibit D Third Party Terms
- Exhibit E Statement of Work
- Exhibit F Contractor’s Proposal
- Exhibit G County’s Request for Proposal, including any addenda/exhibits thereto
- Exhibit H Insurance Certificates

The Contract Documents shall additionally include any duly executed amendments, addenda, and/or exhibits hereto; and, as applicable, all Change Orders. The Contract Documents are hereby incorporated into the body of this Agreement, and shall constitute the entire agreement between the parties, unless otherwise amended as provided herein. If there is any conflict among the Contract Documents, the conflict shall be resolved by adhering to the following order of precedence: (i) this Agreement, inclusive of Exhibits A-E, (ii) Contractor’s Proposal and (iii) the County’s Request for Proposal.

ARTICLE 3 – DURATION

This Agreement shall become effective upon the date of full execution by both parties (Effective Date) and shall be in effect for an initial contract term of ten (10) (3) consecutive calendar years (“Initial Term”). Upon expiration of the Initial Term, the duration of this Agreement may be extended, subject to the same terms and conditions contained herein, or renewed in written by mutual consent of the parties, subject to agreed upon terms and conditions. While this Agreement may be extended or renewed as stated in this article, it is expressly noted that neither the County nor Typer is under any obligation to extend or renew this Agreement. It is expressly noted that the County’s right to access or use the Tyler Software and the SaaS Services will terminate at the end of the duration of this Agreement.

ARTICLE 4 – SCOPE OF SERVICES

- A. **Initiate & Plan (Stage 1).** The Contractor shall provide the services necessary to define project expectations and establish a baseline project plan and schedule, working with St. Johns County Staff, as described in the Statement of Work (Exhibit E). Tasks under Stage 1 shall include coordination and planning, system infrastructure planning, project/phase planning, project schedule, and stakeholder presentation. No changes to the Initiate & Plan Schedule shall be made without prior written approval by the County.
- B. **Assess and Define (Stage 2).** The Contractor shall provide the services necessary to gather information about current County business processes and translate the material into future business processes using Contractor applications, as described in Exhibit E. Tasks under Stage 2 shall include fundamentals review, current/future state analysis, pre-configuration requirements traceability matrix analysis, data conversion planning and mapping, standard third party data exchange planning, modification analysis and specification, forms and reports planning, and system deployment.
- C. **Build and Validate (Stage 3).** The Contractor shall provide the services necessary to prepare the software for use in accordance with the County’s needs identified during the Access and Define Stage, preparing the County for final testing and training, as described in Exhibit E. Tasks under Stage 3 shall include configuration and power user training, data conversion and validation, standard third party data exchange/interface validation, modification delivery and validation, pre-user acceptance testing (UAT) traceability matrix analysis, test plan, custom test script development, and forms and reports validation.
- D. **Final Testing and Training (Stage 4).** The Contractor shall provide the services, working with County Staff, for final testing and training and review of the final cutover plan, as described in Exhibit E. Tasks under Stage 4 shall include cutover planning, user acceptance testing, custom training material documentation, post user acceptance testing requirements traceability matrix analysis, and end user training.
- E. **Production Cutover (Stage 5).** The Contractor shall provide the services, along with the County, to complete tasks as outlined in the Production Cutover Plan, provided under Stage 4, and the County begins processing day-to-day business transactions using the Contractor’s software, as described in Exhibit E. Following production cutover, the County shall transition to the Contractor’s support team for ongoing support of the application. Tasks under Stage 5 shall include final data conversion if applicable, product processing and assistance, transition to Contractor Support, and schedule post-production services.
- F. **Phase/Project Closure (Stage 6).** The Contractor shall provide the services to review outstanding project activities and develop an action plan to address them and review project budget and status of contract deliverables, as described in Exhibit E.
- G. **Certification of Completion.** Following installation and implementation of the software, the parties shall execute a certificate of completion, noting the Contractor’s completion of the work and the County’s acceptance of the work.
- H. All services described herein shall be provided by the Contractor under the general direction of the County’s Growth Management Department Director, or other authorized County designee, who shall act as the County’s representative for the duration of this Agreement. The County agrees to provide such participation as is required, as set forth in Exhibit E, to complete the project stages set forth above.

ARTICLE 5 – COMPENSATION/BILLING/INVOICES

- A. **Software and Implementation.** As payment for the software and implementation services described in this Agreement, the County shall pay to the Contractor an amount not to exceed **one million nine hundred fifty nine thousand fourteen Dollars (\$1,959,014)**, plus reimbursement of travel expenses not to exceed **one hundred and two thousand dollars (\$102,000insert price)**.
- B. **Ongoing Software-as-a-Service (SaaS) Fee.** As set forth in the Invoicing and Payment Policy, for the Initial Term of this Agreement, Contractor will invoice the County the amount of **Four Hundred Seventy Eight Thousand Eight Hundred Fifty-four Dollars (\$478,854)** annually as payment for SaaS Fees.
- C. **Additional Products and Services.** The County may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, the County may purchase additional products and services at mutually agreed upon pricing, by executing a mutually agreed addendum. The terms of this Agreement shall govern any such additional purchase(s), unless otherwise specifically provided in the addendum. For clarity, the rates in the Investment Summary do not include travel expenses, which shall be separately estimated and payable in accordance with the County's then-current Business Travel Policy. Contractor will provide such additional services at an hourly rate of **Two Hundred Fifty Dollars (\$250.00)**, inclusive of travel expenses, for twelve (12) months from the Effective Date.
- D. **Invoicing and Payment; Invoice Disputes.** Contractor will invoice County for the software and services to be provided under this Agreement as set forth in the Investment Summary (Exhibit A) in accordance with the Invoicing and Payment Policy (Exhibit B). Unless otherwise notified, bills/invoices should be delivered to:

St. Johns County Growth Management
Attn: Mike Roberson, Growth Management Assistant Director
4040 Lewis Speedway
St. Augustine, Florida 32804

- E. To the extent that the County does not dispute an invoice, the County will pay invoiced amounts within thirty (30) days of receipt. The County may dispute any invoice by written notice if, in its sole discretion, it determines that the software or service(s) described herein does not conform to Contractor's warranties and representations. Such notice shall include a description of the issue(s) in dispute. The parties shall work in good faith to develop an action plan that outlines reasonable steps to be taken by each party to resolve the issue(s) of dispute. The County may withhold payment of actual amounts in dispute until the issues are resolved. Contractor reserves the right to suspend delivery of all services based upon the County's failure to timely pay any undisputed amounts due, or for the County's failure to complete its agreed upon steps to resolve disputed amounts.

ARTICLE 6 – TRUTH-IN-NEGOTIATION CERTIFICATE

The signing of this Agreement by the Contractor shall act as the execution of a truth-in-negotiation certificate certifying that wage rates and other factual unit costs supporting the compensation are accurate, complete, and current as of the date of this Agreement.

To the extent either party determines that an adjustment to the original contract price is required due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, the parties agree to cooperate reasonably with each other to determine what contract adjustments, if any, should be made and to execute a contract amendment to reflect such change(s). If the parties cannot reach agreement, the parties agree to submit the matter to the dispute resolution process in Section H(1) of the Software as a Service Addendum.

ARTICLE 7 – ARREARS

The Contractor shall not pledge the County's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgement, lien, or any form of indebtedness. The Contractor further warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Agreement.

ARTICLE 8 – TERMINATION

This Agreement may be terminated as set forth below. In the event of termination, the County will pay the Contractor for all undisputed fees and expenses related to the software, products, and/or services the County has received, or the Contractor has incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than County's termination for cause must have been submitted as invoice disputes in accordance with Section E of the Software as a Service Addendum.

- A.
- B. For Cause. If the County believes Contractor has materially breached this Agreement, the County will invoke the Dispute Resolution clause set forth in Section H(1) of the Software as a Service Addendum. The County may terminate this Agreement for cause in the event Contractor does not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(1). In the event of termination for cause, the County shall pay Contractor all undisputed fees and expenses related to the software, products, and services incurred and/or received prior to the effective date of termination.
- C.
- D. Lack of Appropriations. If the County fails to appropriate or otherwise receive funds sufficient to purchase, lease, operate or maintain the software and/or services described in this Agreement, then, the County may unilaterally terminate this Agreement effective on the final day of the fiscal year through which funding is available. The County shall take reasonable efforts to provide at least thirty (30) days prior written notice to the Contractor of termination for lack of appropriations. The County shall pay all undisputed fees and expenses related to services and products received prior to the effective date of termination. The County will not be entitled to a refund or offset of previously paid, but unused SaaS Fees.

ARTICLE 9 – NOTICE OF DEFAULT/RIGHT TO CURE

- A. Should the Contractor fail to perform (default) under the terms of this Agreement, then the County shall provide written notice to the Contractor and invoke the Dispute Resolution clause in Section H (1) of the Software as a Service Addendum. Failure to cure the default within the timeframe provided in the Dispute Resolution clause (or any such amount of time as mutually agreed to by the parties in writing), shall constitute cause for termination of this Agreement pursuant to Article 8 (B) above.
- B. Consistent with other provisions in this Agreement, Contractor shall be paid for all undisputed fees and expenses related to the software, products, and/or services the County has received, or the Contractor has incurred or delivered, prior to the effective date of termination.
- D. Upon receipt of a notice of termination, except as otherwise directed by the County in writing, the Contractor shall:
1. Stop work on the date to the extent specified.
 2. Terminate and settle all orders and subcontracts relating to the performance of the terminated work.

ARTICLE 10 – PERSONNEL

The Contractor represents that it has, or shall secure at its own expense, all necessary personnel required to perform the services set forth in the Investment Summary. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the County.

All services required hereunder shall be performed by the Contractor, or under its supervision. All personnel engaged in performing the services shall be fully qualified and, if required, authorized or permitted under federal, state and local law to perform such services.

ARTICLE 11 – BACKGROUND SCREENINGS

Contractor certifies that all employees that it provides to work on-site at any County-owned facility has undergone a background screening that, at minimum, includes criminal history, drivers' license history, employment history, and

sexual offender registry. Upon request and subject to applicable law, Contractor shall make available to the County all background screening records for any employee working on site at a County-owned facility.

ARTICLE 12 – SUBCONTRACTING

The County reserves the right to approve the use of any subcontractor, or to reject the selection of a particular subcontractor, and to inspect all facilities of any subcontractors in order to make a determination as to the capability of the subcontractor to perform the Work described in the Contract Documents. The Contractor is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

If a subcontractor fails to satisfactorily perform in accordance with the Contract Documents, and it is necessary to replace the subcontractor to complete the Work in a timely fashion, the Contractor shall promptly do so, subject to approval by the County.

The County reserves the right to disqualify any subcontractor, vendor, or material supplier based upon prior unsatisfactory performance.

ARTICLE 13 – FEDERAL AND STATE TAX

In accordance with Local, State, and Federal law, the County is exempt from the payment of Sales and Use Taxes. The County shall provide a tax exemption certificate to the Contractor following the Effective Date. The Contractor shall not be exempt from the payment of all applicable taxes in its performance under this Agreement. It is expressly understood by the County and by the Contractor that the Contractor shall not be authorized to use the County's Tax Exemption status in any manner.

The Contractor shall be solely responsible for the payment and accounting of any and all applicable taxes and/or withholdings including but not limited to Social Security payroll taxes (FICA), associated with or stemming from Contractor's performance under this Agreement.

ARTICLE 14 – AVAILABILITY OF FUNDS

The County's obligations under this Agreement are contingent upon the lawful appropriation of sufficient funds, for that purpose, by the St. Johns County Board of County Commissioners. Pursuant to the requirements of Section 129.07, Florida Statutes, payment made under this Agreement shall not exceed the amount appropriate in the County's budget for such purpose in that fiscal year. Nothing in this Agreement shall create any obligation on the part of the Board of County Commissioners to appropriate such funds for the payment of services provided under this Agreement during any given County fiscal year. Moreover, it is expressly noted that the Contractor cannot demand that the County provide any such funds in any given County Fiscal Year. The County may terminate this Agreement for lack of appropriations in accordance with Article 8(D).

ARTICLE 15 - INSURANCE

The Contractor shall not commence work under this Agreement until he/she has obtained all insurance required under this section and such insurance has been approved by the County. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The Contractor shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate the Contractor has obtained insurance of the type, amount, and classification as required by contract. Contractor will provide the County with notice of cancellation, non-renewal or reduction in Contractor's insurance coverages below the minimum requirements set forth herein within thirty (30) days thereof. Compliance with the foregoing requirements shall not relieve the Contractor of its liability and obligations under this Agreement.

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

The Contractor shall maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate to protect the Contractor from claims for damages for bodily injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Contract.

The Contractor shall maintain during the life of this Contract, Technology Errors & Omissions/Professional Liability with minimum limits of \$1,000,000 per occurrence and aggregate. The Technology Errors & Omissions/Professional Liability Insurance shall cover the Contractor and third parties, at a minimum, the following: Liability for Technology Products/Services, Data Breach, Media Content, Privacy Liability, and Network Security. Coverage retro date shall be prior to commencement of job.

The Contractor shall maintain during the life of this Contract, Crime Coverage with minimum limits of \$1,000,000 per occurrence.

The Contractor shall maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage liability to protect the Contractor from claims for damages for bodily injury, including the ownership, use, or maintenance of owned and non-owned automobiles, including rented/hired automobiles

The Contractor shall maintain Umbrella or Excess Liability Insurance covering workers compensation, commercial general liability and business auto liability with minimum limits of liability of \$5,000,000.

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

ARTICLE 16 - INDEMNIFICATION

Contractor shall indemnify and hold harmless the County, its officers, agents and employees from and against any third-party claims, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs) for personal injury or property damage caused by Contractor's negligent or willful misconduct; or violation of PCI-DSS requirements or a law applicable to Contractor's performance under this Agreement. County shall promptly notify Contractor in writing of any claims and give Contractor sole control over its defense or settlement. The County shall provide Contractor with reasonable assistance, cooperation, and information in defending the claim at Contractor's expense.

To the extent permissible by law, the County shall indemnify and hold harmless Contractor, its officers, agents and employees from and against any third-party claims, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees and costs) for personal injury or property damage caused by the County's negligent or willful misconduct; or violation of a law applicable to the County's performance under this Agreement. Contractor shall promptly notify the County in writing of any claims and give the County sole control over its defense or settlement. Contractor shall provide the County with reasonable assistance, cooperation and information in defending the claim at the County's expense.

ARTICLE 17 - SUCCESSORS AND ASSIGNS

The County and the Contractor each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement. Except as above, neither the County nor the Contractor shall assign, sublet, convey or transfer its interest in this Agreement without the written consent of the other; provided, however, the County's consent is not required for an assignment by Contractor as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of Contractor's assets. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of the County, which may be a party hereto, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the County and the Contractor.

ARTICLE 18 - NO THIRD PARTY BENEFICIARIES

It is expressly understood by the County, and the Contractor, and this Agreement explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

ARTICLE 19 - REMEDIES

No remedy herein conferred upon any party is intended to be exclusive, or any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or nor or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party or any right, power, or remedy hereunder shall preclude any other or further exercise thereof. The parties acknowledge and agree that this provision shall not apply to the Intellectual Property Indemnification clause in Section G of the Software as a Service Addendum which

shall be the County's sole remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

ARTICLE 20 – CONFLICT OF INTEREST

The Contractor represents that, as of the Effective Date, it has no interest and shall acquire no interest, either directly or indirectly, which would conflict in any manner with the performance of services required hereunder. The Contractor further represents that no person having any interest shall be employed for said performance.

ARTICLE 21 – EXCUSABLE DELAYS

Neither party will be considered in default by reason of any delay in performance of its obligations under this Agreement to the extent the delay is caused by Force Majeure.

Within ten (10) business days of the Force Majeure event, the party whose performance is delayed shall provide the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event. The project schedule shall be adjusted as mutually agreed by the parties.

ARTICLE 22 – DISCLOSURE

Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (e.g., social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. This obligation of confidentiality will not apply to information that:

- (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
- (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
- (c) a party receives from a third party who has a right to disclose it to the receiving party; or is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.

The County and the Contractor shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law).

All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to, any representations made herein relating to disclosure of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 23 – INDEPENDENT CONTRACTOR RELATIONSHIP

The Contractor is, and shall be, in the performance of all work services and activities under this Agreement, an independent Contractor, and not an employee, agent, or servant of the County. All persons engaged in any of the work or services performed pursuant to this Agreement shall at all times and in all places be subject to the Contractor's sole direction, supervision, and control.

The Contractor shall exercise control over the means and manner in which it and its employees perform the work, and in all respects the Contractor's relationship and the relationship of its employees to the County shall be that of an independent Contractor and not as employees or agents of the County. The Contractor does not have the power or authority to bind the County in any promise, agreement or representation other than specifically provided for in this Agreement.

ARTICLE 24 – CONTINGENT FEES

Pursuant to Section 287.055(6), Florida Statutes, the Contractor warrants that, as of the Effective Date, it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm,

other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. Violation of this article shall be cause for termination of this Agreement in accordance with Article 8 (B).

ARTICLE 25 – ACCESS AND AUDITS

The Contractor shall maintain adequate records to pertaining to charges, expenses, and costs incurred in performing the services hereunder for at least three (3) years after completion of this Agreement. The County shall have access to such books, records, and documents as required in this article for the purpose of inspection or audit during normal business hours, at the County's cost, upon fifteen (15) days written notice.

ARTICLE 26 – NONDISCRIMINATION

The Contractor warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, physical handicap, sex, age or national origin.

ARTICLE 27 – ENTIRETY OF CONTRACTUAL AGREEMENT

The County and the Contractor agree that this Agreement, signed by both parties sets forth the entire agreement between the parties, and that there are no promises or understandings other than those stated herein, or are incorporated by reference into this Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Agreement may be amended, revised, deleted, altered, or otherwise changed, modified, or superseded, except by written instrument, duly executed by authorized representatives of both the County, and the Contractor.

ARTICLE 28 – COMPLIANCE WITH APPLICABLE LAWS

Both the County and the Contractor shall comply with any and all applicable laws, rules, regulations, orders, and policies of the County, State, and Federal Governments.

ARTICLE 29 – AUTHORITY TO PRACTICE

The Contractor hereby represents and warrants that it has and shall continue to maintain all licenses and approvals required to conduct its business, and that it shall at all times, conduct its business activities in a reputable manner.

ARTICLE 30 – SEVERABILITY

If any term or provision of this Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, or the application of such items or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected and every other term and provision of this Agreement shall be deemed valid and enforceable to the extent permitted by law.

ARTICLE 31 – AMENDMENTS AND MODIFICATIONS

No amendments or modifications of this Agreement shall be valid unless in writing and signed by authorized representatives of each of the parties.

The County reserves the right to make changes in the work, including alterations, reductions therein or additions thereto. Upon receipt by the Contractor of the County's notification of a contemplated change, the Contractor shall: (1) if requested by the County, provide an estimate for the increase or decrease in cost due to the contemplated change; (2) notify the County of any estimated change in the completion date; and (3) advise the County in writing if the contemplated change shall effect the Contractor's ability to meet any of its obligations under this Agreement. If the County elects to make the change, the County shall issue a Change Order for changes, or a contract change order, if the original contract is to be changed or amended the Contractor shall not commence work on any such change until such written change order has been issued and signed by each of the parties. As noted above, no changes to this Agreement shall be binding unless in writing and signed by an authorized representative of each party.

ARTICLE 32 – FLORIDA LAW & VENUE

This Agreement shall be governed by the laws of the State of Florida. Any and all legal action necessary to enforce this Agreement shall be held in the federal and state courts serving St. Johns County, Florida.

ARTICLE 33 – ARBITRATION

The County shall not be obligated to arbitrate or permit any arbitration binding on the County under any of the Contract

Documents or in connection with the project in any manner whatsoever.

ARTICLE 34 – NOTICES

All notices required in this Agreement, including but not limited to notices of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and shall be sent by certified mail, return receipt requested, and if sent to the County shall be mailed to:

St. Johns County Purchasing Department
Attn: Jaime T. Locklear, MPA, CPPO, CPPB, FCCM, Purchasing Manager
500 San Sebastian View
St. Augustine, FL 32084

and if sent to the Contractor shall be mailed to:

Tyler Technologies, Inc.
Attn: Chief Legal Officer
One Tyler Drive
Yarmouth, ME 04096

Notices will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; or (c) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth above or such other address as the party may have designated by proper notice.

ARTICLE 35 – HEADINGS

The heading preceding the articles and sections herein are solely for convenience of reference and shall not constitute a part of this Agreement, or affect its meaning, construction or effect.

ARTICLE 36 – PUBLIC RECORDS

- A. The cost of reproduction, access to, disclosure, non-disclosure, or exemption of records, data, documents, and/or materials, associated with this Agreement shall be subject to the applicable provisions of the Florida Public Records Law (Chapter 119, Florida Statutes), and other applicable State and Federal provisions. Access to such public records, may not be blocked, thwarted, and/or hindered by placing the public records in the possession of a third party, or an unaffiliated party.
- B. In accordance with Florida law, to the extent that Contractor's performance under this Contract constitutes an act on behalf of the County, Contractor shall comply with all requirements of Florida's public records law. Specifically, if Contractor is expressly authorized, and acts on behalf of the County under this Agreement, Contractor shall:
- (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 law;
 - (3) Ensure that public records related to this Agreement 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 completion of this Agreement if the Contractor does not transfer the records to the County; and
 - (4) Upon completion of this Agreement, transfer, at no cost, to the County all public records in possession of the Contractor or keep and maintain public records required by the County to perform the Services.

If the Contractor transfers all public records to the County upon completion of this Agreement, the Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure

requirements. If the Contractor keeps and maintains public records upon completion of this Agreement, the Contractor shall meet all applicable 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.

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

IF THE 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: 500 San Sebastian View, St. Augustine, FL 32084, (904) 209-0805, publicrecords@sjcfl.us

ARTICLE 37 – USE OF COUNTY LOGO

Pursuant to, and consistent with, County Ordinance 92-2 and County Administrative Policy 101.3, the Contractor may not manufacture, use, display, or otherwise use any facsimile or reproduction of the County Seal/Logo without express written approval St. Johns County, Florida.

ARTICLE 38 – SURVIVAL

It is explicitly noted that the following provisions of this Agreement, to the extent necessary, shall survive any suspension, termination, cancellation, revocation, and/or non-renewal of this Agreement, and therefore shall be both applicable and enforceable beyond any suspension, termination, cancellation, revocation, and/or non-renewal: (1) Truth-in-Negotiation; (2) Federal and State Taxes; (3) Insurance; (4) Indemnification; (5) Access and Audits; and (6) Disclosure and (7) Public Records.

ARTICLE 39 – MULTIPLE ORIGINALS AND AUTHORITY TO EXECUTE

This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents that it has the lawful authority to enter into this Agreement and has authorized the execution of this Agreement by the party's authorized representative shown below.

**RFP NO: 19-10; St. Johns County Growth Management –
Electronic Permitting, Plan Review & Inspection System (EPPRIS)
Master Contract No: []-MCC-TYL-10950**

IN WITNESS WHEREOF, authorized representatives of the COUNTY, and CONTRACTOR have executed this Contract Agreement on the day and year below noted.

COUNTY:

St. Johns County, FL
Full Name

By: _____
Signature – County Representative

Jaime T. Locklear, MPA, CPPO, CPPB, FCCM
Printed Name – County Representative

Purchasing Manager
Printed Title – County Representative

Date of Execution

CONTRACTOR:

Tyler Technologies, Inc.
Company Name

Signature – Consultant Representative

Printed Name & Title

Date of Execution

ATTEST:

**ST. JOHNS COUNTY, FL
CLERK OF COURT**

Deputy Clerk

Date of Execution

LEGALLY SUFFICIENT

Deputy County Attorney

Date of Execution

**RFP NO: 19-10; St. Johns County Growth Management –
Electronic Permitting, Plan Review & Inspection System (EPPRIS)
Master Contract No: #MCC-TYL-10950**

DRAFT