

RESOLUTION NO. 2019 - 386

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO AWARD MISC NO. 19-62 AND TO EXECUTE AGREEMENTS FOR PHARMACEUTICAL DISPENSING SERVICES.

RECITALS

WHEREAS, the County desires to enter into contract with Publix Super Markets, Inc. to provide Pharmaceutical Dispensing Services as needed in accordance with Misc. No. 19-62; and

WHEREAS, the scope of the services will be to provide pharmaceuticals and dispensing services per the Medicaid Formulary (Florida Medicaid Preferred Drug List). Flagler Hospital will work with St. Johns County to determine patient eligibility. Flagler Hospital will then upload patient through Scriptcycle platform informing Publix pharmacy of patient eligibility. Publix Pharmacy will accept vouchers from the County's Social Services Dept. as authorization to pay for specific prescriptions for Social Services Clients throughout St. Johns County, in accordance with Misc. No: 19-62; and

WHEREAS, funds for the services have been allocated and are available in Social Service's annual budget; and

WHEREAS, the County has reviewed the terms, provisions, conditions and requirements of the proposed contract (attached hereto, an incorporated herein) and finds that entering into a contract to complete the work services serves a public purpose.

WHEREAS, the contract will be in substantial conformance with the attached draft contract.

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 Misc. 19-62 to Publix Super Markets, Inc. and to execute a contract for the services set forth therein.

Section 3. Upon Board approval, the County Administrator, or designee, is authorized to execute agreements in substantially the same form and format as the attached draft on behalf of the County to provide the scope of services as specifically provided in Misc. 19-62.

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, this 5th day of November, 2019.

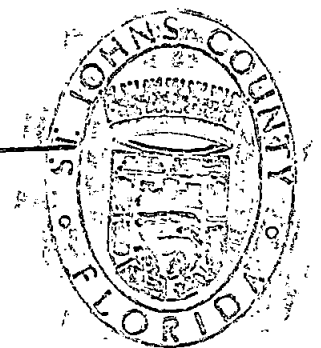
**BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA**

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

ATTEST: Hunter S. Conrad, Clerk

By: Pam Halterman
Deputy Clerk

RENDITION DATE 11/6/19





CONTRACT AGREEMENT
MISC 19-62; PHARMACEUTICAL DISPENSING SERVICES
Master Contract #: 19-MCC-PUB-11238

This Contract Agreement ("Agreement"), is made as of this ____ day of _____ 2019, by and between **St. Johns County, FL**, ("County"), a political subdivision of the State of Florida, with principal offices located at 500 San Sebastian View, St. Augustine, FL 32084, and **Publix Super Markets, Inc.** ("Contractor"), authorized to do business in the State of Florida, with offices located at: 3300 Publix Corporate Pkwy, Lakeland, FL 33811; Phone: (863) 688-1188 ext. 54801; Fax: (863) 616-5853; and Email: Summer.Rayborn@publix.com

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

ARTICLE 1 – DURATION AND EXTENSION

This Agreement shall become effective upon signature by both parties, and shall automatically renew, annually, on the anniversary of the effective date, at the discretion of the County, contingent upon satisfactory performance by the Contractor, and legally appropriated funds are available each fiscal year, unless terminated in accordance with this Agreement. While this Agreement may be renewed as stated in this Article, it is expressly noted that the County is under no obligation to renew or extend this Contract Agreement. It is further expressly understood that the option of renewal is exercisable only by the County, and only upon the County's determination that the Contractor has satisfactorily performed the Services noted in the Contract Documents, and renewal or extension serves the best interest of St. Johns County.

ARTICLE 2 - ENUMERATION OF CONTRACT DOCUMENTS

The term "Contract Documents" shall include all MISC Documents and any addenda/exhibits thereto; all Specifications; this

ARTICLE 3 – SERVICES

The Contractor's responsibility under this Agreement is to provide all labor, materials, and equipment necessary to provide and dispense pharmaceuticals to St. Johns County Social Services clients as needed in accordance with Misc No: 19-62 specifications and as otherwise provided in the Contract Documents.

Services provided by the Contractor shall be under the general direction of the St. Johns County Social Services Department, or other authorized County designee, who shall act as the County's representative, along with the SJC Purchasing Department representative during the performance of this Agreement.

ARTICLE 4 – SCHEDULE

The Contractor shall perform the required services as specified in the Contract Documents. The Contractor shall be required to comply with the schedule set forth in the specifications, and as coordinated with the Contract Administrator, or other designees, throughout the duration of this agreement. No changes to said schedule shall be made without prior written authorization from one of St. Johns County's representatives.

ARTICLE 5 – COMPENSATION

- A. St. Johns County shall compensate the Contractor based upon the pricing structure, as submitted in the proposal, accepted by the County, and provided herein on Exhibit "A-1". The maximum amount available as compensation to the Contractor under this Contract Agreement shall not exceed the annual amount budgeted by the St. Johns County Social Services Department, unless additional funds become available, or are properly transferred, for services satisfactorily performed in accordance with the Contract Documents. This provision shall not be interpreted to require the Contractor to provide uncompensated services or products in connection with this Agreement.
- B. It is strictly understood that Contractor is not entitled to the above-referenced amount of compensation. Rather, the Contractor's compensation shall be based upon the Contractor's adhering to the Scope of Services, detailed in the Contract Documents. As such, the Contractor's compensation is dependent upon satisfactory completion of the required services stated in the Specifications, and included by reference in this Contract Agreement.
- C. The Contractor shall bill the County at the end of each month, for Services satisfactorily performed. No invoice shall be submitted to the County prior to the completion of all services for each month. The County reserves the right to pro-rate or refuse payment of any submitted invoice where services were not performed in accordance with the Contract Documents in all material respects. If a payment is refused by the County, the County shall provide documentation to the Contractor stating the reason for refusal of payment.

- D. St. Johns County's obligations under this Agreement are subject to the availability of lawfully appropriated funds. While the County will make all reasonable efforts, in order to provide funds needed to perform under this Agreement, the County makes no express commitment to provide such funds in 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.
- E. Though there is no billing form or format pre-approved by either the County, or the Contractor, bills/invoices submitted by the Contractor shall include a detailed written report of the Work accomplished in connection with the Scope of Services, and as specified on Exhibit "C". The County may return a bill/invoice from the Contractor, and request additional documentation/information when necessary to validate payment. Under such circumstances, the timeframe for payment will be extended by the time necessary to receive a verified bill/invoice.
- F. Unless otherwise notified, bills/invoices should be delivered to:
- SJC Health and Human Services
ATTN: Tracy Dillon, Social Services Manager
200 San Sebastian View, Suite 2300
St. Augustine, FL 32084
- G. FINAL INVOICE: In order for the County and the Contractor to reconcile/close their books and records, the Contractor shall clearly indicate "Final Invoice" on the Contractor's final bill/invoice to the County. Such indication establishes that all services have been satisfactorily performed and that all charges and costs have been invoiced to the County and that there is no further Work to be performed under this Agreement.

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.

The original contract price and any additions thereto shall be adjusted to exclude any significant sums by which the County determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of the Agreement.

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

- A. This Agreement may be terminated by either party without cause upon at least thirty (30) calendar days advance written notice to the other party of such termination without cause.
- B. This Agreement may be terminated by either party with cause upon at least fourteen (14) calendar days advance written notice of such termination with cause. Such written notice shall indicate the exact cause for termination.

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, which such notice shall include a timeframe of no fewer than five (5) calendar days in which to cure the default. Failure to cure the default within the timeframe provided in the notice of default (or any such amount of time as mutually agreed to by the parties in writing), shall constitute cause for termination of this Agreement.
- B. Consistent with other provisions in this Agreement, Contractor shall be paid for services authorized and satisfactorily performed under this Contract up to the effective date of termination.
- C. 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.
 3. Transfer all work in process, completed work, and other material related to the terminated work to the County.
 4. Continue and complete all parts of the work that have not been terminated.

ARTICLE 10 – PERSONNEL

The Contractor represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Work as provided in the Contract Documents. It is expressly understood that such personnel shall not be employees of, or have any contractual relationship with the County.

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

Any changes or substitutions in the Contractor's key personnel must be made known to the County's representative and written approval granted by the County before said change or substitution can become effective.

The Contractor warrants that all Work shall be performed by skilled and competent personnel. The Contractor is responsible for the professional quality, technical accuracy, and timely completion of all work performed hereunder, and shall correct or revise any errors or deficiencies in the Work, without additional compensation.

ARTICLE 11 – 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 12 – 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 upon request. 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 13 – 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.

ARTICLE 14 - 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 and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to the County. 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 throughout the duration of this Agreement, 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 Agreement, whether such operations be by the Contractor or by anyone directly employed by or contracting with the Contractor.

The Contractor shall maintain throughout the duration of this Agreement, Druggists Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000.

The Contractor shall maintain throughout the duration of this Agreement, Comprehensive Automobile Liability Insurance with minimum limits of \$300,000 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 whether such operations be by the Contractor or by anyone directly or indirectly employed by a Contractor.

The Contractor shall maintain throughout the duration of this Agreement, adequate Workers' Compensation Insurance in at least such amounts as are required by the law for all of its employees (if three or more) per Florida Statute 440.02.

In the event of unusual circumstances, the County Administrator, or his designee, may adjust these insurance requirements.

Notwithstanding anything herein to the contrary, Contractor shall be entitled to self-insure to cover its obligations under this Agreement provided that its net worth at all times equals or exceeds the sum of \$250,000,000. If Contractor's net worth ever falls below \$250,000,000, then the parties shall mutually agree upon acceptable insurance coverage as applicable to this Agreement.

ARTICLE 15 – INDEMNIFICATION AND LIMITATION OF LIABILITY

The Contractor shall indemnify and hold harmless the County and its officers and employees from claims, liabilities, damages, losses, and costs, including court costs, reasonable expert witness and professional consultation services, and reasonable attorneys' fees, (collectively, "Losses") actually incurred by the Indemnified Party, arising out of the Contractor's errors, omissions, negligence, or willful misconduct in connection with the performance of its obligations under this Agreement. The Contractor shall not be liable to, nor be required to indemnify the County for, any portions of damages arising out of any error, omission, or negligence, or willful misconduct of the County or its officers and employees.

CONTRACTOR SHALL NOT BE LIABLE TO THE COUNTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES, ARISING OUT OF OR RELATING TO ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT THE CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

IN NO EVENT SHALL CONTRACTOR'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO CONTRACTOR IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM (COLLECTIVELY THE "CAP").

The foregoing Cap shall not apply to third-party claims against the Contractor in connection with the negligent dispensation of pharmaceuticals regardless of whether such services were funded pursuant to this Agreement.

ARTICLE 16 – 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. 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 17 – 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 18 – 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 now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

In any action brought by either party for the enforcement of the obligations of the other party, the prevailing party shall be entitled to recover reasonable attorney's fees.

ARTICLE 19 – CONFLICT OF INTEREST

The Contractor represents that it presently 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.

The Contractor shall promptly notify the County, in writing, by certified mail, of all potential conflicts of interest for any prospective business association, interest or other circumstance, which may influence or appear to influence the Contractor's judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Contractor may undertake and request an opinion of the County, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by the Contractor.

The County agrees to notify the Contractor of its opinion by certified mail within thirty (30) days of receipt of notification by the Contractor. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Contractor, the County shall so state in the notification and the Contractor shall, at his/her option enter into said association, interest or circumstance and it shall be deemed not in conflict of interest with respect to services provided to the County by the Contractor under the terms of this Agreement.

ARTICLE 20 – EXCUSABLE DELAYS

Notwithstanding any other provision to the contrary, neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform its obligations hereunder (other than the obligation of payment) as a result of natural or public health emergencies; force majeure; freight embargoes; governmentally-imposed moratorium, law or regulation related to the services described herein; or other unforeseen event, circumstance, condition or matter beyond the reasonable control of that party. Such party shall be relieved from liability for its failure to perform until the cessation of such event, circumstance, condition, or matter.

If the Contractor is delayed in completing the services described herein, upon the Contractor's request, the County, in its sole but reasonable discretion may consider the cause and extent of the delay, if the Contractor's failure to perform was without its fault or negligence, the Contract Schedule and/or any other affected provision of this Agreement shall be revised accordingly; subject to the County's right to change, terminate, or stop any or all of the Work at any time.

ARTICLE 21 – DISCLOSURE AND OWNERSHIP OF DOCUMENTS

The Contractor shall deliver to the County for approval and acceptance, and before being eligible for final payment of any amounts due, all documents and materials prepared by and for the County under this Agreement.

All written and oral information not in the public domain, or not previously known, and all information and data obtained, developed, or supplied by the County, or at its expense, shall be kept confidential by the Contractor and shall not be disclosed to any other party, directly or indirectly, without the County's prior written consent, unless required by a lawful order. All drawings, maps, sketches, and other data developed, or purchased under this Agreement, or at the County's expense, shall be and remains the County's property and may be reproduced and reused at the discretion of the County.

The County and the Contractor shall comply with the provisions of Chapter 119, Florida Statutes (Public Records Law). The parties acknowledge that the rates contained within Exhibit A-1 may constitute a 'trade secret' of the Contractor as contemplated by Section 812.081, Florida Statutes. Prior to providing any record that may contain trade secrets to the County, the Contractor shall mark the record with the phrase "trade secret."

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 or ownership of documents, shall survive the execution and delivery of this Agreement and the consummation of the transactions contemplated hereby.

ARTICLE 22 – 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 23 – CONTINGENT FEES

Pursuant to Section 287.055(6), Florida Statutes, the Contractor warrants that 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 section shall be grounds for termination of this Agreement. If this Agreement is terminated for violation of this section, the County may deduct from the contract price, or otherwise recover, the full amount of such fee, commission, percentage, gift, or other consideration.

ARTICLE 24 – ACCESS AND AUDITS

The Contractor shall maintain adequate records to justify all charges, expenses, and costs incurred in performing the work 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 section for the purpose of inspection or audit during normal business hours, at the County's cost, upon five (5) days written notice.

ARTICLE 25 – 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 26 – 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 27 – ENFORCEMENT COSTS

If any legal action or other proceeding is brought for the enforcement of this Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party or parties shall be entitled to recover reasonable attorney's fees, court costs and all reasonable expenses even if not taxable as court costs (including, without limitation, all such reasonable fees, costs and expenses incident to appeals), incurred in that action or proceedings, in addition to any other relief to which such party or parties may be entitled.

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 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 the completion dates or schedules of this Agreement. If the County instructs in writing, the Contractor shall suspend work on that portion of the project, pending the County's decision to proceed with the change. 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.

ARTICLE 32 – FLORIDA LAW

This Agreement shall be governed by the laws of the State of 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 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 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:

Publix Super Markets, Inc.
Attn: Dain Rusk, Vice President, Pharmacy
3300 Publix Corporate Pkwy
Lakeland, FL 33811

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) 2090805, publicrecords@sjcfl.us.

ARTICLE 37 – USE OF 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. Likewise, the County shall not manufacture, use, display, or otherwise use the Contractor's name or logo without the Contractor's written consent.

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; (6) Enforcement Costs; and (7) Access to Records.

ARTICLE 39 – AUTHORITY TO EXECUTE

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.

ARTICLE 40 – BACKGROUND SCREENINGS

The Contractor shall be required to perform background screenings on any and all personnel to perform services, at any time, on County property, under this Agreement. By executing this Agreement, the Contractor certifies that any and all personnel performing services on County property, under this Agreement, have been properly screened, prior to performing any work, and have met the criteria provided below:

- A. Level I Background Screenings are required for any and all Contractor provided personnel performing services on County property under this Agreement. Background screenings include, but are not limited to, national and local criminal history, driver license record, national sexual offender, and employment history.
- B. Level II Background Screenings are required for any and all Contractor provided personnel as specified in Chapter 435.06, Florida Statutes.
- C. Contractor provided personnel who undergo a Level I or Level II Background Screening and who are awaiting final disposition of a felony case, or who, in the past ten (10) years were found guilty of a felony offense, have had adjudication withheld in a felony case, or entered into a pre-trial intervention in a felony case may not perform any services under this Agreement, if it is determined that the arrest record and/or the Court's action is relevant to the position and therefore makes the individual unsuitable to perform services on County property, under this Agreement.

The Contractor shall be required to make any and all records from background screenings of Contractor provided personnel available to the County for review/audit, upon request from the County. The Contractor shall be responsible

for obtaining any and all necessary permissions from the screened individuals allowing the transmission of records to the County for review.

IN WITNESS WHEREOF, authorized representatives of the County and Contractor have executed this Agreement on the day and year below noted.

COUNTY:

CONTRACTOR:

St. Johns County, FL
County Name

Publix Super Markets, Inc.
Company Name

By: _____
Signature - County Representative

Signature of Contractor Representative

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

Dain Rusk
Printed Name – Contractor Representative

Purchasing Manager
Printed Title – County Representative

VP, Pharmacy
Printed Title – Contractor Representative

Date of Execution

Date of Execution

ATTEST:
ST. JOHNS COUNTY, FL
CLERK OF COURT

Deputy Clerk

Date of Execution

LEGALLY SUFFICIENT

Deputy County Attorney

Date of Execution

MISC 19-62; PHARMACEUTICAL DISPENSING SERVICES
Master Contract #: 19-MCC-PUB-11238

EXHIBIT "A"
BASIS OF COMPENSATION

Basis of compensation shall be made in accordance with the unit prices as submitted on the proposal. The unit prices shall include all direct costs, indirect costs, and reimbursable expenses necessary to complete the scope of work. Requests for additional services or additional line items shall be submitted in writing and approved by St. Johns COUNTY *prior* to any work being implemented and shall be added to the applicable Contract Amendment.

Pricing adjustments will be considered on an annual basis at the time of contract renewal and must be mutually accepted by both the Contractor and the Owner. Price adjustment requests shall be based upon the Consumer Price Index (CPI) in affect at the time of renewal. All accepted and approved price adjustments shall become effective on the first Task Order issued after the beginning of the applicable renewal period.

MISC 19-62; PHARMACEUTICAL DISPENSING SERVICES
Master Contract #: 19-MCC-PUB-11238

EXHIBIT "A-1"
CONTRACT PRICING

Pricing Structure for prescription reimbursement shall be as follows:

- (i) Brand Name Prescription. The lower of:
 - (a) usual and customary price; or
 - (b) ((average wholesale price -14 %) + \$2.80 dispensing fee).
- (ii) Generic Prescription. The lower of:
 - (a) usual and customary price; or
 - (b) ((average wholesale price -30 %) + \$2.80 dispensing fee); or
 - (c) the maximum allowable cost + \$2.80 dispensing fee.

MISC 19-62; PHARMACEUTICAL DISPENSING SERVICES
Master Contract #: 19-MCC-PUB-11238

EXHIBIT "B"
CONTRACT SCHEDULE

The Contract Period for this scope of work shall be as follows:

The Contract Agreement shall become effective upon signature by both parties, and shall automatically renew, annually, on the anniversary of the effective date, at the discretion of the County, upon satisfactory performance by the Contractor, mutual agreement by all parties, the availability of funds and the continued need of the County for services.

MISC 19-62; PHARMACEUTICAL DISPENSING SERVICES
Master Contract #: 19-MCC-PUB-11238

EXHIBIT "C"
SCOPE OF WORK

- Flagler Hospital will work with St. Johns County to determine patient eligibility. Flagler Hospital will then upload patient through Scriptcycle platform informing Publix pharmacy of patient eligibility.
- Provide pharmaceuticals and dispensing services per the Medicaid Formulary (Florida Medicaid Preferred Drug List).
- Accept vouchers from the County's Social Services Department as authorization to pay for specific prescriptions for Social Services clients.
- Accept a minimum of a three (3) month wait for payment on Social Services clients that are pending Medicaid and/or Social Security Disability/SSI.
- Invoice St. Johns County Social Services Department once a month, providing a separate bill for each client that lists each medication with the corresponding prescription number, referencing the voucher/approval number provided by St. Johns County Social Services.
- Provide Drug Utilization Review (D.U.R.) Services to include updates of existing formulary.

Publix locations authorized to participate:

Publix Store #3227
(Pharmacy in Flagler Hospital)
300 Health Park Blvd Ste 1002
St. Augustine, FL 32086
Pharmacy: (904) 824-4556

Publix Store # 0099 (ONLY when Flagler Hospital Pharmacy is closed)
125 Jenkins St
St. Augustine, FL 32086
Pharmacy: (904) 810-6823

Ordering and Payment:

- Obligation to pay under a contract is contingent upon an annual appropriation of funds by the St. Johns County Board of County Commissioners. The County agrees that it shall not submit a voucher for the dispensation of pharmaceuticals for any patient if funding is not available for such services.
- The "ordering" process will occur as follows:
 - The client will obtain, from Social Services, a voucher to receive dispensing of pharmaceuticals accompanied by an appropriate prescription that will be given to the designated vendor.

The "payment" process will occur as follows:

- The pharmacy will invoice St. Johns County Social Services Department once a month. The pharmacy will provide Social Services with a separate bill for each client. The bill must indicate patient's name, each medication provided, and price of prescription with the corresponding prescription number referencing the voucher/approval number provided by St. Johns County Social Services.
- Invoices will be submitted with sufficient detail for a proper pre-audit and post-audit. Vendor will not be paid for items that do not have an approved voucher from the Social Services Department.

EXHIBIT "B"

BILL OF SALE

THIS BILL OF SALE is executed and delivered pursuant to the terms of that certain Asset Purchase Agreement dated February 22, 2019, ("**Agreement**") by and between **Publix Super Markets, Inc.**, a Florida corporation ("**Buyer**") on the one hand, and Flagler Community Pharmacy, Inc., a Florida corporation ("**Corporation**") and Kenneth Arnett ("**Arnett**"), a Florida resident (Corporation and Arnett are each a "**Seller**" and collectively the "**Sellers**").

All capitalized terms not otherwise defined herein shall have the same meanings ascribed to them in the Agreement.

Sellers, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, do hereby sell, assign, grant, bargain, transfer, convey and deliver to Buyer, its successors and assigns, all of Sellers' right, title and interest in and to the Assets (as defined in the Agreement) with the exception of all items specifically excluded by the Agreement or disposed of by Sellers in accordance with the terms of the Agreement.


Sellers hereby warrants that it has good and merchantable title to the Assets and the capacity to transfer and convey the Assets to the Buyer. Sellers further warrant that the Assets are free of all liens and encumbrances of any nature whatsoever.

[SIGNATURE PAGES FOLLOW]

The Sellers have caused this Bill of Sale to be executed as of February 22, 2019.

**“CORPORATION” AND
“SELLER”**

**Flagler Community Pharmacy, Inc.,
a Florida corporation**

By: 
Name:
Its:

**“SELLER”
Kenneth Arnett,
a Florida resident**

By: 