

RESOLUTION NO. 2020 - 405

A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO AMEND THE LICENSING AGREEMENT UNDER MISC NO. 20-103 WITH U.S. CAD FOR TWENTY-FIVE (25) ADDITIONAL BLUEBEAM REVU STANDARD LICENSES, ANNUAL MAINTENANCE AND SUPPORT AND ANNUAL LICENSING SUBSCRIPTION PER EACH LICENSE, PLUS ONE CLOUD SUBSCRIPTION OFR BLUEBEAM STUDIO PRIME LEVEL 1.

RECITALS

WHEREAS, the County entered into a perpetual licensing agreement with U.S. CAD for two (2) Bluebeam Revu Standard Perpetual Licenses with annual Maintenance and Support and annual Bluebeam Licensing Subscription that was required for testing of the operation of the new Electronic Permitting, Plan Review and Inspection System (EPPRIS) which has been under development for the Growth Management Department; and

WHEREAS, the County desires to amend the Bluebeam Revu Standard Licensing Agreement with U.S. CAD to add the remaining twenty-five (25) required perpetual licenses to the agreement, and add the Bluebeam Studio Prime Level 1 Cloud Subscription to the agreement; and

WHEREAS, the Bluebeam Revu Standard perpetual license agreement has recurring annual costs for maintenance and support per license, licensing subscription fee per license, and one Bluebeam Studio Prime Cloud Subscription; and

WHEREAS, the Bluebeam Revu Standard Licensing Agreement and annual recurring costs will be renewed each year for as long as the Bluebeam Revu Standard is required for operation of the Electronic Permitting, Plan Review and Inspection System (EPPRIS); and

WHEREAS, the County has reviewed the terms, provisions, conditions and requirements of the proposed contract (attached hereto, and incorporated herein) and finds that entering into contract for the Bluebeam Revu Standard Perpetual Licenses to operate the Electronic Permitting, Plan Review and Inspection System (EPPRIS) serves a public purpose; and

WHEREAS, the contract amendment 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 amend the license agreement with U.S. CAD, and to execute the license agreement for the services set forth therein.

Section 3. Upon approval by the Board of County Commissioners, the County Administrator, or designee, is further authorized to execute an agreement 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 No. 20-103.

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 20 day of October, 2020.

BOARD OF COUNTY COMMISSIONERS OF
ST. JOHNS COUNTY, FLORIDA

By: Jeb S. Smith
Jeb S. Smith, Chair

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

By: Ram Halterman
Deputy Clerk

RENDITION DATE 10/21/20





We have prepared a quote for you

Bluebeam Revu Standard & Co-termed Maintenance

Quote # 015419
Version 1

Prepared for:

St. Johns County, FL

Jim Schock
jschock@sjcfi.us



Products

Description	Price	Qty	Ext. Price
859463006414 Bluebeam Revu Standard New Perpetual License, Windows OS. Bluebeam Revu Standard 2019 is the essential solution for intuitive PDF markup, editing and collaboration. It includes key features such as Markup List, Tool Chest, Measurement Tools and Bluebeam Studio. Add to SN 9822565	\$331.55	25	\$8,288.75
859463006513 1- Bluebeam Revu Standard New Maintenance & Support (1-49 devices), Windows OS. 49 Co term to existing renewal date of 6/3/2021	\$74.25	25	\$1,856.25
859463006810 Bluebeam Revu New Enterprise Licensing Annual Subscription, Windows OS. Co term to existing renewal date of 6/3/2021	\$7.50	25	\$187.50
893645001019 Bluebeam Studio Prime Level 1 (up to 100 users), Subscription, Cloud: Co term to existing renewal date of 6/3/2021	\$2,340.00	1	\$2,340.00

Subtotal: \$12,672.50

Bluebeam Revu Standard & Co-termed Maintenance



Prepared by:
U.S. CAD
Sarah
626-644-8661
sarah.greene@uscad.com

Prepared for:
St. Johns County, FL
4040 Lewis Speedway
Saint Augustine, FL 32084
Jim Schock

jschock@sjcfl.us

Quote Information:
Quote #: 015419
Version: 1
Delivery Date: 09/21/2020
Expiration Date: 10/30/2020

Quote Summary

Description	Amount
Products	\$12,672.50
Total: \$12,672.50	

Terms & Conditions:

- 1.) Please sign below as orders will not be accepted without a signed quotation.
- 2.) Product returns will be allowed within 30 days of invoice date. A restocking fee of 15% plus original shipping fee may be charged.
- 3.) Customer is eligible to receive free technical support. To submit a support case, visit <https://uscad.com/support/> or call our technical support department.
- 4.) If shipping charges do not appear on this quote, shipping charges for physical media shipments, if applicable, will appear on the invoice.
- 5.) Customer has one year from date of purchase to receive training or services that have been prepaid, unless otherwise agreed upon by management, after which time customer has forfeited rights to receive such training or services.
- 6.) Payment is due in advance unless a credit limit has been established with U.S. CAD.
- 7.) If sales tax charges do not appear on this quote, but are determined to be applicable, they will appear on the invoice.

U.S. CAD

St. Johns County, FL

Signature: _____

Name: Sarah Greene

Title: Bluebeam Specialist

Date: 09/21/2020

Signature: _____

Name: Jim Schock

Date: _____

END USER LICENSE AGREEMENT

Bluebeam® Revu® Version 2018

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- b. **What Information We Collect.** Bluebeam collects, transmits, stores and uses Licensed User Data to (i) contact Licensee concerning Licensee's rights and obligations, the availability of Updates and Upgrades, and the performance of the Software; (ii) respond to Licensee's inquiries and feedback; (iii) verify Licensed Users and Devices and compliance with the terms of this EULA; (iv) meet regulatory requirements; and (v) understand and assist Licensee and the Licensed Users with bugs, error reports, crash logs and other problems discovered with the Software. The Software may automatically connect to Bluebeam's servers via the internet to communicate with Bluebeam for purposes such as license validation and to check for the availability of Updates and Upgrades. Bluebeam may disclose Licensed User Data in accordance with applicable law.
 - c. **Aggregated Data.** Bluebeam and its authorized affiliates use Licensed User Data, specifically *excluding* Personal Information, in combination with data from other users to analyze, develop, manage and deliver the Software and Upgrades and Updates to the Software as well as to understand feature usage, performance, and other legitimate business purposes related to understanding, developing and providing Bluebeam's products and services.
 - d. **Transfer of Data to the US.** If Licensee and/or Licensed Users are located in the European Economic Area ("EEA"), Licensee and the Licensed Users hereby expressly consent to the transfer of Licensed User Data to a location outside of the EEA.
 - e. **Reasonable Security Measures.** Bluebeam shall implement and maintain commercially reasonable and appropriate technical, administrative, and physical safeguards and security methods designed to prevent any unauthorized release, access to or publication of Licensed User Data. Bluebeam shall implement processes and maintain procedures designed to comply with applicable privacy laws. If Bluebeam engages a subcontractor or affiliate to facilitate its obligations under the Agreement, Bluebeam shall use commercially reasonable measures to ensure that such subcontractor and/or affiliate implements and complies with reasonable security measures in handling any Licensed User Data.
18. **Suggestions.** If Licensee provides Bluebeam with any suggested improvements to the Software, then that suggestion is provided as is and unrestricted. No suggestion will be deemed the confidential information of Licensee. Licensee grants Bluebeam a nonexclusive, perpetual, irrevocable, royalty free, worldwide license, with rights to transfer, sublicense, sell, use, reproduce, display, and make derivative works of such suggestions.
19. **Export Controls.** LICENSEE ACKNOWLEDGES THAT THE SOFTWARE AND RELATED TECHNOLOGY AND DOCUMENTATION ARE SUBJECT TO THE EXPORT LAWS AND REGULATIONS OF THE UNITED STATES, INCLUDING, WITHOUT LIMITATION, THE U.S. EXPORT ADMINISTRATION REGULATIONS (COLLECTIVELY THE "EXPORT LAWS"). THESE LAWS INCLUDE RESTRICTIONS ON DESTINATIONS, END USERS AND END USE OF THE SOFTWARE. Licensee shall not export or re-export, or allow the export or re-export of the Software or any technology, documentation or information it obtains or learns pursuant to this EULA (or any direct product thereof) in violation of any such Export Laws. Licensee shall obtain and bear all expenses relating to any necessary licenses and/or exemptions with respect to the export of the Software from the United States or other fulfillment locations into another country in compliance with all Export Laws. The Software and related technology and documentation are prohibited for export or re-export to a number of countries, including without limitation, Cuba, Crimea, Iran, Iraq, Libya, North Korea, Sudan, and Syria, and to any person or entity on the U.S. Department of Commerce's Denied Persons List or affiliated lists, on the U.S. Department of Treasury's Specially Designated Nationals List or on any U.S. Government export exclusion lists. Licensee warrants, represents, covenants and agrees that to the best of its knowledge, neither Licensee nor its owners, officers, directors, employees or anyone affiliated or associated with Licensee, whether by common ownership, by contract, or otherwise, has been designated as, or is, a terrorist, a "Specially Designated National" or a "Blocked Person" under U.S. Executive Order 13224, in lists published by the U.S. Department of the Treasury's Office of Foreign Assets Control, or otherwise.
20. **General Terms.**
- a. **Governing Law and Arbitration.** This EULA shall be governed and construed in accordance with the laws of the State of California, excluding California's choice-of-law principles, and all claims relating to or arising out of this contract, or the breach thereof, whether sounding in contract, tort or otherwise, shall likewise be governed by

the laws of the State of California, excluding California's choice-of-law principles. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. Any controversy or claim, whether in law or in equity, arising out of or relating to this EULA, or the breach thereof, shall be settled by arbitration in Los Angeles County administered by JAMS in accordance with its Streamlined Arbitration Rules & Procedures, and judgment on the award rendered by the arbitrator(s) is final and not appealable and may be entered in any court having jurisdiction thereof.

- b. **Attorneys' Fees.** If either party employs attorneys to enforce any rights arising out of or relating to this EULA, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs, and other expenses. The term "prevailing party" means that party, as plaintiff or defendant, who substantially prevails against the other party. Notwithstanding the foregoing, if a written offer of compromise made by either party is not accepted by the other party within forty-five (45) days after receipt and the party not accepting such offer fails to obtain a more favorable judgment, the non-accepting party shall not be entitled to recover its costs of suit and reasonable attorney's fees and costs (even if it is the prevailing party) and shall be obligated to pay the costs of suit and reasonable attorney's fees and costs incurred by the offering party.
- c. **Severability.** If any provision of this EULA is held to be unenforceable or invalid, the enforceability of the remaining provisions shall in no way be affected or impaired thereby but shall remain in full force and effect.
- d. **Waiver.** No failure or delay in enforcing any right, power or privilege granted herein will be deemed a waiver unless made in writing and signed by a duly authorized representative of the party providing the waiver; and no single waiver will be considered a continuing or subsequent waiver.
- e. **Equitable Relief.** Licensee acknowledges and agrees that any breach or alleged breach of this EULA would cause irreparable harm and significant injury to Bluebeam that may be difficult to ascertain and that a remedy at law would be inadequate. Licensee agrees that Bluebeam shall have the right to seek and obtain, without the posting of a bond, immediate injunctive relief to enforce the obligations under this EULA in addition to any other rights and remedies it may have.
- f. **Controlling Language.** This EULA has been prepared in the English language and the English language shall control its interpretation. All notices to be provided by either party hereto shall be in the English language. In the event of any conflict between the English language version and any translation of this EULA that may be provided for convenience only, the English language meaning shall control.
- g. **Notices.** All notices required by this EULA shall be in writing and either delivered and effective (i) personally upon receipt, (ii) by email upon receipt or if sent after 5pm PT then the next business day, (iii) by a major commercial overnight courier service with tracking capabilities upon receipt, or (iv) by certified mail, return receipt requested, postage prepaid, five (5) days after the post-marked date. Notice to Licensee shall be addressed to the Primary Contact listed by Licensee in Bluebeam Licensing Portal (licensing.bluebeam.com). Notice to Bluebeam shall be addressed to Legal Department, 55 South Lake Avenue, Suite 900, Pasadena, California, 91101, U.S.A. or to copyright@bluebeam.com.
- h. **No Assignment.** This EULA is personal as to Licensee and may not be transferred or assigned, voluntarily, by operation of law or otherwise, without Bluebeam's express written consent which may be withheld, delayed or conditioned in the sole discretion of Bluebeam. Provided Bluebeam grants such consent, this EULA shall be binding upon the assignee in the same manner that it is binding upon Licensee and Licensee is responsible for informing all Licensed Users and assignee's of the binding application of this EULA and all provisions contained herein.
- i. **Entire Agreement.** This EULA, including all exhibits and addendums hereto, contains the entire agreement of the parties hereto with respect to the subject matter hereof and supersedes all prior or contemporaneous discussion, understandings, communications, proposals, and agreements, whether written or oral.
 - i. This EULA may not be modified, amended or supplemented except in a writing signed by an authorized representative of Bluebeam except as allowed by Section 1.8(i)(ii) below.
 - ii. This EULA expressly supersedes and completely replaces any and all prior end user license agreements for the Software. Bluebeam reserves the right to update this EULA. Any updates will be made available at www.bluebeam.com/revu/eula.
 - iii. Bluebeam shall not be bound by or liable to Licensee for any pre-existing or contemporaneous written or oral representations or warranties made by a third party with respect to the Software, including, without limitation, by a Reseller or their respective agents, employees or representatives, nor shall Licensee be deemed a third party beneficiary of any obligations of Bluebeam to any such Reseller.

- iv. Any terms and conditions contained in Licensee's purchase order or other administrative document will not be effective as a modification or supplement to this EULA, regardless of whether Bluebeam objects to such form.

Bluebeam Customer Contact. If You have any questions concerning these terms and conditions, or if You would like to contact Bluebeam for any other reason, please call (626) 788-4100, or write: Bluebeam, Inc., 55 South Lake Ave, Suite 900, Pasadena, California 91101 USA, Attention: Operations
You may also reach us at <http://www.bluebeam.com>.

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MAINTENANCE SUBSCRIPTION
ADDENDUM A

1. **Annual Maintenance Subscription.** Upon timely payment of the annual Maintenance Fee, Bluebeam agrees to provide Licensee with Maintenance services with respect to the Software licensed hereunder. Maintenance is valid for one (1) year commencing on the Maintenance Start Date. Licensee's Maintenance subscription will automatically renew on the Maintenance Renewal Date for additional periods of one (1) year provided Licensee pays the applicable Maintenance Fee on or before the Maintenance Renewal Date. In no event will Bluebeam be required to perform Maintenance services in the event Licensee does not make timely payment of the Maintenance Fee.
2. **Maintenance Fee.** The Maintenance Fee may be updated or modified from time to time in Bluebeam's sole discretion. The Maintenance Fee is non-transferable. The Maintenance Fee is refundable only within the first thirty (30) days after its purchase. After the first thirty (30) days the Maintenance Fee is non-refundable.
3. **Payment Terms.** The Maintenance Fee must be paid in advance directly to Bluebeam or to the Reseller to which You paid the License Fee. Notwithstanding the forgoing, Licensee's Maintenance subscription will not commence until payment is received by Bluebeam. Licensee's Maintenance subscription will not be renewed unless payment of the then published Maintenance Fee is received by Bluebeam prior to the Maintenance Renewal Date. It is Licensee's sole responsibility to ensure that the Maintenance Fee is received by the Reseller such that the Reseller may in turn pay Bluebeam prior to the Maintenance Renewal Date.
4. **Termination; Non-Renewal:**
 - a. **Termination by Licensee.** Licensee may terminate Licensee's Maintenance subscription at any time upon providing thirty (30) days prior written notice to Bluebeam. Bluebeam will not refund any portion of the Maintenance Fee unless notice of termination is received by Bluebeam within thirty (30) days of the Maintenance Start Date.
 - b. **Termination by Bluebeam.** Bluebeam may terminate Licensee's Maintenance subscription at any time and for any reason by providing Licensee with thirty (30) days prior written notice of termination. Provided Bluebeam terminates Licensee's Maintenance subscription, Bluebeam will refund Licensee the pro-rata portion (calculated on a per month basis) of the Maintenance Fee applicable to the terminated portion of the subscription period.
 - c. **Automatic Termination.** Licensee's Maintenance subscription will automatically terminate upon Licensee's failure to pay the Maintenance Fee on or before the Maintenance Renewal Date.
 - d. Provided Licensee's Maintenance subscription terminates for any reason, Licensee's license to use the Software shall continue without the benefits of the Maintenance subscription.
5. **Reinstatement of Expired Maintenance.** If Licensee fails to renew Licensee's Maintenance subscription but subsequently desire to reinstate a Maintenance subscription, the following apply:
 - a. If the expired Maintenance is for the most recent version of the Software then being licensed by Bluebeam (e.g. the latest version of the Software being licensed is 2018 and the expired Maintenance applied to Licensee's license of version 2018), then Licensee shall pay all unpaid Maintenance Fees (not previously paid) plus a delayed maintenance fee; and
 - b. If the expired Maintenance is for a version of the Software that is not the most recently released version being licensed by Bluebeam (e.g. the version of the Software being licensed is 2018 and the expired Maintenance applies to a license of version 2016), then Licensee shall pay all applicable Licensee Fees for an Upgrade to the current version plus the then applicable Maintenance Fees.
6. **Definitions:** All capitalized terms used herein but not defined shall have the meanings set forth in the EULA.
 - a. **"Maintenance"** means an optional, annual, add-on subscription service available to licensees of the Software that includes unlimited phone and email support during Bluebeam's standard support hours and major version Upgrades at no additional charge.

- b. "Maintenance Fee" is the annual per Seat fee in effect on the date Maintenance is purchased and/or renewed, as applicable, that Licensee pays to Bluebeam to secure or renew its annual Maintenance subscription.
- c. "Maintenance Renewal Date" is the on-going annual anniversary of the Maintenance Start Date. The Maintenance Renewal Date is listed on the license certificate as the "Subscription Expiration" date.
- d. "Maintenance Start Date" is the date that the first Maintenance Fee is paid by Licensee to Bluebeam.
- e. "Upgrades" are defined in Section 5 of the EULA.

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ENTERPRISE LICENSE SUBSCRIPTION
ADDENDUM B

1. **Enterprise License Subscription.** Subject to the full and complete payment of the ELS Fee, Bluebeam agrees to provide Licensee with one (1) Enterprise License Key. Licensee agrees to use the Enterprise License Key to assign, un-assign and re-assign Seats between Licensee's Devices and Licensed Users provided the Single User Ratio is maintained at all times.
2. **Enterprise License Subscription Fee.** The ELS Fee is non-transferable. The ELS Fee may be updated or modified from time to time in Bluebeam's sole discretion. The ELS Fee is refundable only within the first thirty (30) days after its purchase. After the first thirty (30) days the ELS Fee is non-refundable.
3. **Payment Terms.** The ELS Fee must be paid in advance directly to Bluebeam or to the Reseller to which You paid the License Fee. Notwithstanding the forgoing, Licensee's Enterprise License subscription will not commence until the ELS Fee is received by Bluebeam. Licensee's Enterprise License subscription will not be renewed unless payment of the ELS Fee is received by Bluebeam or the Reseller, as applicable, on or before the ELS Renewal Date. It is Licensee's sole responsibility to ensure that the ELS Fee is received by the Reseller prior to the ELS Renewal Date.
4. **Enterprise License Subscription Requirements.**
 - a. **Maintenance.** Licensee is required to purchase and maintain an annual Maintenance subscription to be eligible to license an Enterprise License Key. If Licensee's Maintenance subscription terminates, for any reason, the Enterprise License subscription shall simultaneously terminate. Licensee's license to use the Software shall continue without the benefits of the Maintenance subscription and Enterprise License subscription. Licensee shall have thirty (30) days to unregister the Software from all Devices and re-register non-Enterprise License versions of the Software. Failure to unregister and re-register non-enterprise License versions shall be deemed a material breach of this EULA and grounds for immediate termination.
 - b. **Upgrades.** Upon release of an Upgrade, Licensee is required to unregister the Software from all Devices and re-register the Upgrade. Provided Licensee has not unregistered the Software but has already downloaded the Upgrade and Licensee fails to unregister the Software for a period of thirty (30) days, Bluebeam shall invoice Licensee for the then-current full retail price of the Software (not the discounted Upgrade price). Licensee agrees to pay such invoice within ten (10) days of the receipt thereof.
 - c. **Confidentiality of Enterprise License Key.** It is Licensee's sole responsibility to maintain the confidentiality and integrity of the Enterprise License Key. Provided the confidentiality is breached or Licensee suspects it is breached, Licensee will notify Bluebeam immediately so that the Enterprise License Key can be disabled and a new Enterprise License Key assigned to Licensee.
5. **Enterprise License Subscription Management.**
 - a. **Non-Compliance with Single User Ratio.** If at any time Licensee assigns Seats to a number of Devices and/or Licensed Users in excess of five percent (5%) of the total number of licensed Seats (the "Overage Allowance"), Licensee will be prohibited from assigning a Seat to a new Device until the overage has been corrected by Licensee or additional Seats have been licensed by Licensee. For purposes of clarification only, if Licensee has licensed twenty (20) seats, Licensee may exceed the Single User Ratio by one (1) Device or Licensed User (but not both) for a period of up to but not exceeding thirty (30) days. If at any time Licensee's Single User Ratio exceeds the Overage Allowance for a period of thirty (30) days, Bluebeam reserves the right to unregister the number of Devices as is required to obtain compliance with the Single User Ratio.
 - b. **Automatic Seat Release.** Licensee's Device periodically communicates with Bluebeam's license server over the internet to validate the Single User Ratio. After fifteen (15) days without a communication from Licensee's Device, the license server will automatically release the Seat from the Device. All Inactive Seats will remain unassigned

until such time as the earlier of (i) the Seat is affirmatively assigned to a Device by Licensee, or (ii) the previously assigned Device communicates with the Bluebeam's license server and re-engages the Seat.

- c. Licensing Portal Access. Promptly following the ELS Start Date, Bluebeam will issue Licensee's Enterprise License Key and grant Licensee access to the Licensing Portal. Licensee is required to create and maintain a password to access the Licensing Portal. It is Licensee sole responsibility to keep such password confidential and to prevent the unauthorized use of Licensee's password. In the event the password is forgotten or compromised, Licensee must contact Bluebeam immediately.

6. Term and Termination.

- a. Term. The Enterprise License Key is valid for one (1) year commencing on the ELS Start Date. The Enterprise License subscription will automatically renew for additional periods of one (1) year upon Licensee's payment of the ELS Fee on or before the ELS Renewal Date.
- b. Termination by Licensee. Licensee may terminate the Enterprise License subscription at any time upon providing thirty (30) days prior written notice to Bluebeam. Bluebeam will not refund any portion of the ELS Fee unless notice of termination is received by Bluebeam within thirty (30) days of the ELS Start Date.
- c. Termination by Bluebeam. Bluebeam may terminate the Enterprise License subscription at any time upon providing Licensee with thirty (30) days prior written notice. Provided Bluebeam terminates Licensee's Enterprise License subscription, Bluebeam will refund Licensee the pro-rata portion (calculated on a per month basis) of the ELS Fee applicable to the terminated portion of the subscription period.
- d. Automatic Termination. If Licensee's Single User Ratio exceeds the Overage Allowance for a period of sixty (60) days, Bluebeam reserves the right to terminate this Addendum and revoke the Enterprise License Key.

7. Definitions. All capitalized terms used herein but not defined shall have the meanings set forth in the EULA.

- a. "Enterprise License" means an optional, annual, add-on subscription service available that allows Licensee to use an Enterprise License Key to manage Licensee's Seat assignments to Licensed Users and Devices.
- b. "Enterprise License Key" means a unique identifier assigned by Bluebeam to Licensee that allows Licensee to access the Licensing Portal and manage the Seats assigned to Licensee's Licensed Users and Devices.
- c. "ELS Fee" means the annual per Seat fee in effect on the date the Enterprise License Key is licensed and/or renewed, as applicable, that Licensee pays to secure or renew its annual Enterprise License subscription.
- d. "ELS Renewal Date" means each annual anniversary of the ELS Start Date.
- e. "ELS Start Date" means the date Bluebeam receives Licensee's ELS Fee. The ELS Start Date is the same date as the Maintenance Start Date. If Maintenance Fees are paid on a different date, the later of the two dates shall be used as both the ELS Start Date and the Maintenance Start Date.
- f. "Licensing Portal" means Bluebeam's online portal accessible via the internet that allows Licensee to view and manage Licensee's Seat to Device to Licensed User assignments.
- g. "Inactive Seat" means a Seat assigned to a Device that has not connected to the internet for a period of fifteen (15) days.
- h. "Single User Ratio" means ratio established in Section 1 of the EULA, by which Licensee may install and use one (1) Seat of the Software on one (1) Device for use by one (1) Licensed User.

RIDER 1

St. Johns County Supplemental Terms and Conditions

1. Availability of Funds.

The County's obligations under this Contract 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 Contract Agreement, (and the County agrees that it shall not execute and submit an Order Form for the purchase of any products or services from U.S. CAD unless it has properly secured funding for such purchase), the County makes no express commitment to provide such funds in any given County Fiscal Year. Moreover, it is expressly noted that U.S. CAD cannot demand that the County provide any such funds in any given County Fiscal Year.

2. Permits and Licenses. To the extent that U.S. CAD needs to obtain/require, and maintain permits, certifications, and/or licenses, in order to perform the Services noted in this Agreement, then U.S. CADs shall be responsible for securing, obtaining/acquiring, and maintaining, at U.S. CAD's sole expense, any, and all, permits, certifications, licenses, and/or approvals required by Federal, State, and/or County law, rule, regulation, or ordinance.

3. Amendments to this Contract Agreement.

Both the County and U.S. CAD acknowledge that this Agreement constitutes the complete agreement and understanding of the parties. Further, both the County and U.S. CAD acknowledge that any change, amendment, modification, revision, or extension of this Contract Agreement (other than termination, as noted elsewhere in this Contract Agreement) shall be in writing, and shall be executed by duly authorized representatives of both the County, and U.S. CAD.

7. 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 U.S. CADs' performance under this Agreement constitutes an act on behalf of the County, U.S. CAD shall comply with all requirements of Florida's public records law. Specifically, if U.S. CAD is expressly authorized, and acts on behalf of the County under this Agreement, U.S. CAD shall:

- (1) Keep and maintain public records that ordinarily and necessarily would be required by the County in order to perform the services described herein;
- (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 with a reasonable time at a cost that does not exceed the cost as provided in Chapter 119, Florida States, or as otherwise provided by applicable law;
- (3) Ensure that public records related to this Agreement that are exempt or confidential and exempt from public disclosure requirements are not disclosed except as authorized by applicable law for the duration of this Agreement and the following completion of this Agreement if U.S. CAD does not transfer the records to the County; and
- (4) Meet all requirements for retaining public records, and transfer at U.S. CAD's sole cost and expense, all public records in the possession of U.S. CAD upon termination of this Agreement. U.S. CAD shall destroy any duplicate records that are exempt or confidential and exempt from public disclosure requirements in accordance with applicable State and Federal provisions. Any public records stored electronically must be provided to the County in a format that is compatible with information technology systems maintained by the County.

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**

- C. Failure by U.S. CAD to grant such public access shall be grounds for immediate, unilateral termination of this Agreement by the County. U.S. CAD shall promptly provide the County notice of any request to inspect or copy public records related to this Agreement in U.S. CAD's possession and shall promptly provide the County a copy of U.S. CAD's response to each such request.
8. Severability.
If any word, phrase, sentence, part, subsection, section or other portion of this Contract Agreement, or any application thereof, to any person, or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof, shall be severable, and the remaining portions of this Agreement/Contract, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force, and effect.
11. Personnel.
U.S. CAD represents that it has, or shall secure at its own expense, all necessary personnel required to perform the Services as noted 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 of the Services required hereunder shall be performed by U.S. CAD, 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. Any changes or substitutions in U.S. CAD'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. U.S. CAD warrants that all Services shall be performed by skilled and competent personnel to the highest professional standards in the field.
13. Governing Law and Venue.
This Contract Agreement shall be construed according to the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Contract Agreement shall be in St. Johns County, Florida.
14. Insurance.
U.S. CAD, at its sole expense, shall secure and maintain insurance coverage in the types and amounts provided in the attached Insurance Requirements for the Duration of this Contract Agreement.

U.S. CAD shall not commence work under this Contract until it has obtained all insurance required under this section. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. U.S. CAD shall furnish proof of Insurance to the County prior to the commencement of operations. The Certificate(s) shall clearly indicate U.S. CAD has obtained insurance of the type, amount, and classification as required by contract and that it will provide written notice within thirty (30) days of a material change or cancellation of the insurance. Compliance with the foregoing requirements shall not relieve U.S. CAD of its liability and obligations under this Contract.

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

U.S. CAD shall maintain during the life of this Agreement, Comprehensive General Liability Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 aggregate to protect U.S. CAD 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 U.S. CAD or by anyone directly employed by or contracting with U.S. CAD.

U.S. CAD shall maintain during the life of this Contract, Technology Errors & Omissions/Professional Liability with minimum limits of \$3,000,000 per occurrence and aggregate. The Technology Errors & Omissions/Professional Liability Insurance shall cover U.S.

CAD 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.

U.S. CAD shall maintain during the life of this Contract, Cyber Liability & Data Storage Insurance with minimum limits of \$2,000,000 per occurrence, \$3,000,000 aggregate. The Cyber Liability Insurance shall cover, at a minimum, the following: Data Loss and System Damage Liability; Security Liability; Privacy Liability; and Privacy/Security Breach Response Coverage, including Notification Expenses. The Cyber Liability Insurance may be included as part of the Professional Liability Insurance required above.

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

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

15. Indemnification.

U.S. CAD shall indemnify and hold harmless the County and its officers and employees from claims, liabilities, damages, losses, and costs, including court costs, expert witness and reasonable professional consultation services, and reasonable attorneys' fees, arising out of claims for personal injury or tangible property damage and U.S. CAD's gross negligence. U.S. CAD 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 of the County or its officers and employees.

Notwithstanding any provision in the Contract Agreement to the contrary any indemnification of U.S. CAD on the part of the County shall be subject to the limitations provided in Section 768.28, Florida Statutes, and shall not operate as a waiver of the County's sovereign immunity.

17. Remedies.

Unless expressly stated, 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 as may be awarded by a court of competent jurisdiction.

18. Conflict of Interest.

U.S. CAD 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. U.S. CAD further represents, to the best of its knowledge, that no person having any interest shall be employed for said performance. U.S. CAD 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 U.S. CAD'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 U.S. CAD may undertake and request an opinion of U.S. CAD, whether such association, interest, or circumstance constitutes a conflict of interest if entered into by U.S. CAD. The County agrees to notify U.S. CAD of its opinion by certified mail within 30 days of receipt of notification by U.S. CAD. If, in the opinion of the County, the prospective business association, interest or circumstance would not constitute a conflict of interest by U.S. CAD, the County shall so state in the notification and U.S. CAD 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 U.S. CAD under the terms of this Contract Agreement.

20. Arrears.

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

21. Ownership of Documents.

U.S. CAD acknowledges that all information provided by County to U.S. CAD shall remain solely and exclusively owned by County. Finished and unfinished documents or materials prepared by U.S. CAD under the Agreement remains the property of U.S. CAD. U.S. CAD is granting County a license to use the software applications and any documents developed and/or produced in connection with that license, and subject to the software license agreement; such licenses contain confidential or proprietary information and shall remain the property of U.S. CAD. The rights County will receive under the license agreement are rights to use the U.S. CAD software license applications and related materials. County is not entitled to any rights to the title or ownership of any source code, object code, design and design documents, flow charts and/or specifications, or any work product produced by U.S. CAD, such as reports, schedules, displays, exhibits, other documentation, etc. U.S. CAD claims all rights to its proprietary

and confidential information including, but not limited to, its pricing, terms, conditions, specifications, software documentation, the U.S. CAD terms, and Services Scope Statement, Professional Services Work Order or Statement of Work, or any other similar document.

22. Contingent Fees.

U.S. CAD warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for U.S. CAD to solicit or secure this Contract 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 U.S. CAD, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Contract Agreement.

23. Access & Audits.

U.S. CAD shall maintain adequate records to justify all charges, expenses, and costs paid by County under this Agreement for at least three (3) years after completion of this Contract Agreement. The County shall have access to such U.S. CAD 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 ten (10) days written notice.

24. Nondiscrimination.

U.S. CAD 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.

25. Entirety of Contractual Agreement.

The County and U.S. CAD agree that this Contract 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 Contract Agreement. None of the provisions, terms, conditions, requirements, or responsibilities noted in this Contract 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 U.S. CAD.

26. Enforcement Costs.

If any legal action or other proceeding is brought for the enforcement of this Contract Agreement, or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Contract 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, and if awarded by a court of competent jurisdiction.

27. Authority to Practice.

U.S. CAD hereby represents and warrants that it has and shall continue to maintain all license and approvals required to conduct business, and that it shall at all times, conduct its business activities in a reputable manner.

28. Severability.

If any term or provision of this Contract Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Contract 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 Contract Agreement shall be deemed valid and enforceable to the extent permitted by law.

29. Amendments & Modifications.

No amendments or modifications of this Contract Agreement shall be valid unless in writing and signed by each of the parties. If the County instructs in writing, U.S. CAD 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 U.S. CAD shall not commence work on any such change until such written change order has been issued and signed by each of the parties.

30. Arbitration.

Neither party shall be obligated to arbitrate or permit any arbitration with respect to resolving any disputes under any of the Contract Documents or in connection with the project in any manner whatsoever.

31. Notices.

All notices required in this Contract 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: Purchasing Manager
500 San Sebastian View St. Augustine, FL 32084

and if sent to U.S. CAD shall be mailed to:

U.S. CAD

32. Headings.

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

33. No Third Party Beneficiaries.

Both the County and U.S. CAD explicitly agree, and this Contract explicitly states that no third party beneficiary status or interest is conferred to, or inferred to, any other person or entity.

34. Use of County Logo.

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

35. Survival.

It is explicitly noted that the 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.