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**RESOLUTION NO. 2023 - 302**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AUTHORIZING THE COUNTY ADMINISTRATOR, OR DESIGNEE, TO FINALIZE TERMS AND EXECUTE A CONTRACT WITH SJC CULTURAL EVENTS, INC, FOR OPERATIONS AND MANAGEMENT OF CULTURAL EVENTS FOR ST. JOHNS COUNTY; AND TO TRANSFER FUNDS TO SJCCE AND TO ESCROW, AS PROVIDED IN THE CONTRACT; AND TO ASSIGN EXISTING CONTRACTS, AS PROVIDED IN THE CONTRACT; AND TO TRANSFER OWNERSHIP OF THE ASSET LIST, AS PROVIDED IN THE CONTRACT.**

**RECITALS**

**WHEREAS**, the Board established an Amphitheater & Concert Hall Advisory Committee (“ACHAC”) in May 2022, to develop recommendations for enhancing the programs at the St. Augustine Amphitheatre and Ponte Vedra Concert Hall, and the ACHAC made recommendations in September 2022, for the Board to partner with a private 501(c)3 corporation to manage the operations of the Cultural Events facilities and programs; and

**WHEREAS**, the County received an unsolicited proposal from SJC Cultural Events, Inc, (“SJCCE”) for the management of Cultural Events, and pursuant to Florida Statute 255.065, the County issued a Request for Proposals (‘RFP’) soliciting additional proposals and advertising receipt of the unsolicited proposal; and

**WHEREAS**, the Board directed Staff to enter into negotiations on April 18, 2023 with SJCCE to come to agreement over terms for presentation to the Board; and

**WHEREAS**, the draft Contract has been negotiated for Board approval, and an independent analysis was conducted related to the improved public benefit from the Business Plan.

**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 Board authorizes the County Administrator, or designee, to finalize the terms and execute a contract, in substantially the same form and format as attached, with SJC Cultural Events, Inc.

Section 3. Upon Board approval, the County Administrator, or designee, is authorized to transfer funds to an Escrow Account, or to SJC Cultural Events, as provided in the Contract.

Section 4. The Board approves transfer of ownership of the Asset List, along with all other non-asset equipment, materials and supplies in possession by SJC Cultural Events Division, to SJC Cultural Events, Inc for the purposes of performance under the Contract.

Section 5. The Board further authorizes the County Administrator, or designee, to assign all Existing Contracts for services, with terms beyond the transition date of October 1<sup>st</sup>, and all Performer Agreements signed prior to October 1<sup>st</sup>, 2023, with scheduled performances after October 1, 2023.

Section 6. To the extent that there are typographical and/or administrative errors that do not change the tone, tenor, or concept of this Resolution, then this Resolution may be revised without subsequent approval by the Board of County Commissioners.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, Florida, on this 19<sup>th</sup> day of September, 2023.

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

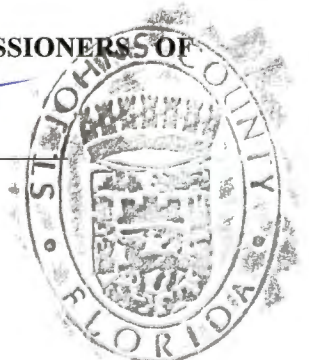
By: Crystal Smith  
Deputy Clerk

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

By: [Signature]  
Christian Whitehurst, Chair

**SEP 21 2023**

**Rendition Date** \_\_\_\_\_





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This Operation & Management Agreement (“Contract”) is made this [redacted] day of [redacted], 20[redacted] (the “Effective Date”) by and between **ST. JOHNS COUNTY** (“County”), a political subdivision of the State of Florida, whose principal offices are located at 500 San Sebastian View, St. Augustine, FL 32084; and **SJC CULTURAL EVENTS, INC** (“SJCCE”), a company authorized to do business in the State of Florida, with its principal offices located at: 1030 N Ponce De Leon Blvd, St. Augustine, FL 32084, Phone: [redacted], and E-mail: [drumrellsta@gmail.com](mailto:drumrellsta@gmail.com), for **RFP NO.: 23-58; PUBLIC PRIVATE PARTNERSHIP – OPERATIONS AND MANAGEMENT OF ST. JOHNS COUNTY CULTURAL EVENTS.**

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

## ARTICLE I CONTRACT DOCUMENTS

### **1.1 Enumeration of Contract Documents**

1.1.1 The Contract Documents are those documents which shall govern the actions of the County and SJCCE under this Contract, and shall consist of the following documents incorporated herein by reference:

- a) Fully Executed Amendments to this Contract;
- b) This Fully Executed Contract, including all Exhibits hereto:
  - a. Exhibit A – Asset List;
  - b. Exhibit B – Deferred Maintenance Schedule;
  - c. Exhibit C – Annual Maintenance Schedule;
  - d. Exhibit D – Transition Services Document;
  - e. Exhibit E – Existing Contracts List;
  - f. Exhibit F – State Park Lease Agreement for St. Augustine Amphitheatre, including Extension dated 08/02/2023;
- c) Insurance furnished by Contractor in accordance with Article XIII herein

1.1.2 Documents not enumerated above are not Contract Documents and do not form part of this Contract. No terms, conditions, limitations or exclusions in Contractor’s bid/proposal documents or invoices shall be binding upon County or become part of the Contract Documents. Any representations made, whether verbal or otherwise which are not included in the Contract Documents, as listed above, shall not form a part of this Contract.

### **1.2 Definitions**

When the following terms appear in the Contract Documents, they shall have the following meaning:

1.2.1 Affiliate: A person or company that directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with, a specified person or company or other governance entity.

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

1.2.3 Annual Budget: The Total Annual Budget that includes the Operating Budget, Capital Improvements, Events Budget (by Venue and by Cultural Series), and the proposed budget(s) for any one-time projects, programs or initiatives that will be funded during any given Operating Year.

1.2.4 Annual Maintenance: The ongoing maintenance of equipment, vehicles, buildings, and facilities at the Venue.

1.2.5 Annual Operations: The activities undertaken by SJCCE, on an annual basis, consisting of staffing, purchase of operating, computer, and office supplies, utilities, advertising (non-event specific), dues and memberships, communications, postage, utilities, lease/rental of equipment, lease/rental of land, insurance, software, purchase of gas, oil and lubricants, grant expenditures, and annual audit.

1.2.6 Applicable Laws: All local, state, and federal laws, statutes, codes, ordinances, rules and regulations in effect at the time Work and Warranty Work is performed under this Contract.

1.2.7 Capital Assets: Tangible or intangible assets transferred to SJCCE by the County, or purchased by SJCCE which

exceed \$5,000, and have a useful life of more than two (2) years.

1.2.8 Capital Expenditures: All expenditures for Capital Assets and Capital Improvements.

1.2.9 Capital Improvements: Improvements to the facilities of the Venue made to enhance or upgrade the overall quality, functionality or aesthetics, creating an addition, physical enlargement or expansion, creating an increase in capacity, or adapting facilities to support a new or different use, which exceed \$25,000.

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

1.2.11 Commercial Rights: Naming rights, pouring rights, advertising, sponsorships, branding of food and beverage products for resale, premium seating and memorial gifts at or with respect to the Venue or any Event.

1.2.12 Consumer Price Index (CPI): The Consumer Price Index for All Urban Consumers (CPI-U) for Tamp-St. Petersburg-Clearwater, All Items (1982-84=100), not seasonally adjusted, as promulgated by the Bureau of Labor Statistics of the U.S. Department of Labor, as amended or replaced by the agency or, if no such index shall be published, such similar index reasonably designated by the County.

1.2.13 Contract: This fully executed Agreement, together with all exhibits attached hereto, each of which are incorporated herein as a Contract Document.

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

1.2.15 Cultural Series: Any collection or grouping of Events organized by SJCCE, which may or may not be held at the Venue, including but not limited to the Fort Mose Jazz & Blues Series, and Sing Out Loud.

1.2.16 Deferred Maintenance: Capital Improvements at the Venue which have been deferred by the County for one or more years, and which SJCCE is proposing to accomplish in accordance with the Deferred Maintenance Schedule attached hereto as Exhibit "C".

1.2.17 Emergency Purchase: A purchase or contract for goods or services necessitated due to an urgent situation in which there is an imminent threat to health, welfare, safety, property, or other substantial loss to the Parties, or the conservation of public resources is at risk.

1.2.18 Event: Any organized entertainment or other type of function, either at the Venue or another location, booked and managed by SJCCE in accordance with the requirements of this Contract.

1.2.19 Unmanaged Events: Any community event such as local schools or organizations that are not managed, marketed, ticketed by SJCCE.

1.2.20 Event Expenses: The direct expenses incurred by the SJCCE pertaining to an Event booked and managed by SJCCE, at the Venue, or at another location, in accordance with this Contract. Event Expenses shall not be intermingled with Operating Expenses.

1.2.21 Event Revenues: All gross income and revenues, including all fees, ticket sales, Concessionaire payments, and other amounts received by SJCCE derived from an Event booked and managed by the SJCCE, at the Venue, or another location, in accordance with this Contract.

1.2.22 Existing Contracts: Agreements between the County and third-parties to perform services at the Venue or for Cultural Events, existing prior to the Effective Date of this Contract, which shall be assigned to SJCCE, as set forth on Exhibit "F" attached hereto.

1.2.23 Intellectual Property Rights: Any rights under patent, copyright, trademark, trade secret, or rights of publicity laws,

or any other statutory provision, regulation or common law doctrine, including rights in trademarks, ideas, know-how, software, tools, inventions, creations, improvements, works of authorships, other similar materials, and all audio and audiovisual recordings, and any other embodiment of the foregoing, in any form, format or media, whether now existing or developed in the future, whether or not specifically listed herein, which may subsist in any part of the world, for the full term of such rights, including any extension to the terms of such rights.

1.2.24 Marketing Plan: A plan for the advertising and promotion of the Venue, or Events otherwise located, managed by the SJCCE, which may contain but is not limited to: (i) market research, (ii) market position, (iii) marketing objectives, (iv) marketing strategies, (v) booking priorities, (vi) local, regional, national and internationally targeted events, (vii) targeted meetings, conventions, and trade shows, (viii) industry advertising campaign, (ix) internal and external support staff, (x) advertising opportunities at the local, regional and national level, (xi) attendance at various trade shows, conventions and seminars, (xii) incentive formulas for multiple event acts, (xiii) merchandising and retail, (xiv) food and beverage, (xv) a plan regarding national, regional and local public relations and media relations, (xvi) development of an in-house advertising agency, and (xvii) policies regarding the use of trade/barter.

1.2.25 Net Event Profit: The amount by which Event Revenues exceeds Event Expenses in the applicable Operating Year.

1.2.26 Operating Budget: A line item budget for all Services performed by the SJCCE, pursuant to this Contract, which includes a projection Operating Revenues and Expenses, annual and long-range plan for Capital Improvements, projection of Event Revenue and Expenses for Venue and Cultural Series, annual plan for projects, programs, or purchases, presented on a monthly and annual basis.

1.2.27 Operating Expenses: All expenses incurred by SJCCE in connection with its operation, promotion, maintenance and management of the Venue, as well as any Services performed related to Events held at location(s) other than the Venue, pursuant to this Contract, which shall include, but are not limited to: (i) employee payroll, benefits, relocation costs, hiring, background checks, severance, bonus and related costs, (ii) operating and building supplies, including general office supplies, (iii) advertising, marketing, group sales, and public relation costs, (iv) cleaning expenses, (v) data processing costs, (vi) dues, subscriptions, and membership costs, (vii) printing and stationary costs, (viii) postage and freight costs, (ix) equipment rental costs, (x) minor repairs, maintenance and equipment servicing, not including expenses relating to Capital Improvements, (xi) security expenses, (xii) telephone and communication costs, (xiii) travel expenses of employees, (xiv) employee uniforms and identification, (xv) landscaping, exterior grounds, exterminator, and trash removal, (xvi) computer, software, hardware and training costs, (xvii) utility expenses, (xviii) audit and accounting fees, (xix) legal fees, (xx) all bond(s) and insurance costs, including but not limited to personal property, liability, and workers' compensation insurance, (xxi) commissions and all other fees payable to third parties (e.g. commissions related to food, beverage and merchandise concession services), (xxii) cost of complying with any Laws, (xxiii) costs incurred by SJCCE to settle or defend any claims asserted against SJCCE arising out of its operations pursuant to this Contract, (xxiv) costs incurred under Contracts relating to operations pursuant to this Contract, (xxv) Taxes, and (xxvi) cost of storage and warehousing of data.

1.2.28 Operating Revenues: Income and revenues generated through the operation of the Venue, and management of Cultural Events, not specifically tied to an Event or Cultural Series. These revenues include, but are not limited to: advertising, sponsorships, donations, parking for non-Events, rental fees, non-Event merchandise, and other income generated by SJCCE, not related to Events or Cultural Series.

1.2.29 Operating Year: Each twelve (12) month period during the Term, commencing on October 1 and ending on the following September 30.

1.2.30 Operations Manual: Document to be developed by SJCCE that shall contain terms regarding the management and operation of the Venue, and all other Services performed by the SJCCE, pursuant to this Contract, including detailed policies and procedures to be implemented upon the Effective Date of this Contract.

1.2.31 Revenue Generating Contract: Supplier and merchandising agreements, user/rental agreements, booking commitments, licenses, and all other contracts or agreements generating revenue for the Venue and entered into by the SJCCE in the ordinary course of operating the Venue, or performing Services pursuant to this Contract.

1.2.32 Revenues: All income and revenues generated by SJCCE, including Event Revenues and Operating Revenues.

1.2.33 Services: All work performed by the SJCCE for the purposes of operating and managing the Venue, as well as any and all Events pursuant to this Contract.

1.2.34 Service Contracts: Contracts or agreements entered into by the SJCCE in connection with performing Services pursuant to this Contract, including, but not limited to: ticketing, web development and maintenance, computer support services, engineering services, general facility and system(s) maintenance (HVAC, fire control, elevators, stage equipment, burglar alarm, portable restrooms, landscaping, etc.), telephone, staffing, security, pest control, and other services which are deemed by SJCCE and County to be necessary in operating the Venue.

1.2.35 SJCCE Representative: The individual tasked with representing the interests of the SJCCE throughout the duration of the Contract.

1.2.36 Subcontractor: A Subcontractor is an individual, partnership, corporation, association, joint-venture or any combination thereof, which has a direct or indirect contract with the SJCCE to perform services or provide goods in relation to the SJCCE's responsibilities under this Contract.

1.2.37 Taxes: Any and all governmental assessments, franchise fees, excises, license and permit fees, levies, charges and taxes, of every kind and nature whatsoever, which at any time during the Term may be assessed, levied, or imposed on, or become due and payable out of or in respect of (i) activities conducted on behalf of SJCCE at the Venue, or any other location, including without limitation the sale of concessions, the sale of tickets, and the performance of events (such as any applicable sales and/or admissions taxes, use taxes, excises taxes, occupancy taxes, employment taxes, and withholding taxes), or (ii) any payments received from any holders of a leasehold interest or license in or to the Venue, from any guests, or from any others using or occupying all or any part of the Venue.

1.2.38 Transition Services: Services performed by SJCCE, as described in Exhibit "E", to assist in the divestiture of the Cultural Events Division from St. Johns County, the transfer of funds related to the establishment of all requirements necessary to make SJCCE fully functioning and operational to being performing Services pursuant to this Contract.

1.2.39 Venue: Facilities for which SJCCE shall have the responsibility for operating and managing, includes, collectively, the St. Augustine Amphitheatre, 1340C A1A South, St. Augustine, FL 32080, and Ponte Vedra Concert Hall, 1050 A1A North, Ponte Vedra Beach, FL 32082, and may include additional facilities in the future, which can be incorporated by Amendment.

## **1.4 Interpretation of Contract Documents**

1.4.1 The Contract Documents shall be interpreted in the order of precedence as provided above in Section 1.1.1. The body of this Contract shall govern over any Exhibits. Additionally, operational documents submitted by SJCCE to the County are not Contract Documents, and shall not supersede or govern over the provisions of this Contract, or any of the Contract Documents.

1.4.2 SJCCE is solely responsible for requesting instructions, interpretations or clarifications concerning the Contract Documents and is solely liable for any cost and/or expenses arising from its failure to do so. Any dispute relating to a question of fact arising under this Contract shall be resolved through good faith efforts upon the part of SJCCE and the County. Unless otherwise directed in writing, SJCCE shall at all times carry on with its responsibilities in accordance with the requirements of this Contract and the determination of the County, pending resolution of any dispute. Any dispute that is not disposed of by mutual agreement shall be decided by the County Administrator, or designee, who shall reduce such decision to writing. The decision of the County Administrator, or designee, shall be final and conclusive. SJCCE's failure to protest the County Administrator, or designee's determination or decisions within fourteen (14) calendar days after receipt thereof shall constitute a waiver by SJCCE of all its rights to further protest, judicial or otherwise.

1.4.3 In no event will a dispute, the filing of a protest, claim or appeal, or the resolution or litigation thereof, relieve SJCCE from its obligations required by this Contract.

## **1.5 Entire Contract**

This Contract, together with the Contract Documents identified herein, constitutes the entire Contract between County and SJCCE relating to the subject matter hereof and supersedes all prior or contemporaneous Contracts, negotiations, discussions and understandings, oral or written.



## ARTICLE II SCOPE OF SERVICES

### **2.1 Engagement**

2.1.1 Both the County and SJCCE agree to conduct necessary activities to fulfill the Transition Services in accordance with Exhibit “E” attached hereto.

2.1.2 Upon completion of the Transition Services, as mutually agreed upon by the Parties, the County hereby engages and authorizes SJCCE to operate and manage the Venue, the Events held at the Venue and through the Cultural Series. The Operations and management of the Venue and Cultural Series, (“Scope of Services”), shall include, but is not limited to: any and all management activities including human resources, accounting, contracting, and operations; any and all activities associated with maintaining the Venue, which includes maintenance and custodial services for the facilities, equipment and capital improvements of the Venue; security for the Venue at all times; any and all activities associated with providing world-class programming at the Venue and through the Cultural Series, which includes marketing, promotions, advertising, contracting, ticketing, event management, security, food and beverage services, merchandising, production, and event close out.

2.1.3 SJCCE hereby accepts such engagement, and shall perform any and all services necessary to fulfill the obligations of this Contract, subject to the limitations expressly set forth in the Contract Documents.

2.1.4 SJCCE shall make all reasonable efforts to provide the County with ten (10) tickets to all performances at the St. Augustine Amphitheatre, and four (4) tickets to all performances at the Ponte Vedra Concert Hall, and ten (10) tickets to any performance at each Event at a location other than the Venue. These tickets shall only be provided when allowed by contracts with performers. These tickets shall be released to SJCCE at least fourteen (14) days prior to the performance if unclaimed by the County.

### **2.2 Responsibilities of SJCCE**

2.2.1 Pursuant to this Contract, SJCCE shall assume full operational control of the Venue, manage all Events at the Venue and all aspects of the Cultural Series, maintain all facilities and equipment at the Venue in good operating condition, as provided herein. The operation and management of the Venue and management of the Events and Cultural Series shall be conducted in a manner that will maximize opportunities to achieve and sustain a profit for each operating year from the operations of the Venue, Events and Cultural Series, the promotion of tourism in the County, and having a positive economic impact on tourism by attracting and promoting and contracting for Events at the Venue and other locations throughout the County.

### **2.3 Performance Evaluation**

2.3.1 SJCCE shall be required to perform its duties and responsibilities under this Contract to the satisfaction of the County, which shall be determined by SJCCE’s ability to demonstrate the following:

- i) Satisfactory performance and conduct of SJCCE, and its employees;
- ii) Maintenance and repair of the Venue;
- iii) Customer Satisfaction for Events and Venue Experience;
- iv) Increased Profitability of the Operations of the Venue;
- v) Positive Economic Impact on Tourism in St. Johns County;
- vi) Increase to Tourist Development Tax Dollars generated by operations of the Venue;

2.3.2 SJCCE shall develop and submit Key Performance Indicators, which must be mutually agreeable to the Parties, and shall report on same, twice each year, as provided herein.

2.3.3 In the event, SJCCE fails to satisfactorily demonstrate successful delivery of the established Key Performance Indicators, as determined by the County, SJCCE shall be prohibited from proceeding with any performance-based incentive payout to any of SJCCE’s executive team, or general staff. Additionally, failure to demonstrate successful delivery of the Key Performance Indicators shall subject SJCCE to reduction of amounts budgeted by the County for future Operating Years, and may also obligate SJCCE to repay amounts allocated by the County in the current Operating Year.

### **2.4 Operations Manual**

2.4.1 SJCCE shall be required to develop and implement a written Operations Manual, which shall provide for policies and procedures for all aspects of the operation and management of the Venue, and all services pursuant to this Contract. Such Operations Manual shall include, but is not limited to:

- 2.4.1.1 Employee Manual
- 2.4.1.2 Procurement & Contracts Procedures;
- 2.4.1.3 Maintenance and Capital Improvement Procedures;
- 2.4.1.4 Banking and Accounting Procedures;
- 2.4.1.5 Information Security Policy;
- 2.4.1.5 Physical Security Policy;

## **2.5 Limitations on SJCCE's Duties**

SJCCE's obligations under this Contract are contingent upon and subject to the County making available the funds submitted by SJCCE in the agreed upon annual Operating Budget.

## **2.6 Utilities**

The County shall transfer all existing utilities located at the Venue to SJCCE on or before the effective date of this Contract. SJCCE shall be responsible for any managing any changes, outages, and any additional temporary or permanent utilities which must be established after the Effective Date of this Contract. SJCCE shall be responsible for any and all costs related to utilities within the Annual Budget for each Operating Year.

## **2.7 Taxes**

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

## **2.8 Publicity and Advertising**

2.8.1 SJCCE shall be responsible for making announcements, releasing information, or publishing photographs concerning the obligations and responsibilities under this Contract, and agrees to provide the County with advance notice of any announcements, information, and/or photographs, prior to publication, in the event the nature of such publication requires County awareness, response, or action.

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

## **2.9 Changes to Scope of Services**

2.9.1 In the event the County elects to alter the Scope of Services, provided in Article II herein, to include additional facilities, events, services, or other considerations, the County agrees to coordinate a discussion with SJCCE for the potential of adding such consideration to this Contract.

2.9.2 In the event the County makes a determination regarding the IMAX Theatre, the County agrees to provide SJCCE with the first right of refusal to consider the addition of the operation of the IMAX Theatre to this Contract, if such addition is in the best interest of both the County and SJCCE.

# **ARTICLE III COUNTY FUNDING**

## **3.1 Initial Funding Transfer**

3.1.1 Upon, or on the next business day following the effective date of this Contract, the County shall initiate a transfer of the remaining fund balance for the Cultural Events Division, with a withholding of \$1,200,000 to ensure adequate funding to cover costs and expenses to which the County is obligated, which may be invoiced and/or paid by the County after the effective date of this Contract. Upon payment of all outstanding obligations, the County will subsequently transfer any

amounts remaining from the withheld funds. In the event the outstanding obligations exceed the amount withheld by the County, SJCCE may be obligated to make payment to the County in the amount of such excess obligations.

### **3.2 Annual Operations**

3.2.1 The County agrees to budget an amount not-to-exceed \$800,000, which shall be transferred to SJCCE upon or on the next available business day following October 1<sup>st</sup> of each Operating Year, to fund the Annual Operations requirements under this Contract.

3.2.2 The Annual Operations funds shall be used for operational expenses, public relations and artist initiatives, as proposed by SJCCE in their Business Plan.

3.2.3 The budgeted amount for Annual Operations, as provided in this Section 3.2, will be adjusted by the percentage change in the Consumer Price Index (CPI) over the previous twelve (12) month period (i.e. the difference, expressed as a percentage, between the CPI published most recently prior to the previous October 1<sup>st</sup>, and the CPI published most recently prior to the submittal deadline for SJCCE's Annual Budget). In the event CPI decreases in any Operating Year, the amount for Annual Operations shall remain unchanged from the previous Operating Year.

### **3.3 Annual Maintenance**

3.3.1 The County agrees to budget an amount not-to-exceed \$750,000, which shall be transferred to SJCCE upon or on the next available business day following October 1<sup>st</sup> of each Operating Year, to fund the Annual Maintenance programmed by SJCCE in accordance with Exhibit "D" of this Contract.

3.3.2 The Annual Maintenance funds shall be used for all direct and indirect costs related to maintenance needs, except for repairs required as the result of abuse or neglect which shall be funded and paid for by SJCCE separate from the amount funded by the County for Annual Maintenance.

3.3.3 Annual Maintenance funds will be adjusted by the percentage change in the Engineering News Record (ENR) Building Cost Index for Atlanta GA over the previous twelve (12) month period (i.e. the difference, expressed as a percentage, between the ENR published Building Cost index most recently prior to the previous October 1<sup>st</sup>, and the ENR Building Cost Index published most recently prior to the submittal deadline for SJCCE's Annual Budget). In the event ENR Building Cost Index decreases in any Operating Year, the amount for Annual Maintenance shall remain unchanged from the previous Operating Year.

3.3.4 All work currently requested within the work order system for County Facilities Management shall be completed within Thirty (30) consecutive calendar days of execution of this Contract.

### **3.4 Cultural Series**

3.4.1 The County agrees to budget an amount not-to-exceed \$1,700,000, which shall be transferred to SJCCE upon or on the next available business day following October 1<sup>st</sup> of each Operating Year, to fund the Cultural Series, including but not limited to Sing Out Loud and Fort Mose Jazz Music Festival, as well as additional Events which may be added to the Cultural Series programming, by mutual agreement of the Parties.

3.4.2 The annual Cultural Series funds shall be used for any and all Event Expenses related to operation and management of the Cultural Series Events, identified herein, and which may be added in the future.

3.4.3 The annual Cultural Series funding amount will be adjusted by the percentage change in the Consumer Price Index (CPI) over the previous twelve (12) month period (i.e. the difference, expressed as a percentage, between the CPI published most recently prior to the previous October 1<sup>st</sup>, and the CPI published most recently prior to the submittal deadline for SJCCE's Annual Budget). In the event CPI decreases in any Operating Year, the amount for Cultural Series shall remain unchanged from the previous Operating Year.

### **3.5 Deferred Maintenance**

3.5.1 The Parties have agreed to the existing Deferred Maintenance Schedule which consists of Capital Improvements, and repair/replacement projects, attached hereto as Exhibit "C". SJCCE agrees to accomplish these projects, in accordance with Exhibit "C", in order to maintain the Venue in peak operating condition, and to prevent any decline in the Venue's capability to support the operations of SJCCE.

3.5.2 The County agrees to deposit amounts into an Escrow Account, with the County's contracted escrow agent, in accordance with Exhibit "C", and at such times so as to maximize the benefits of the funds prior to deposit, and to prevent delays for SJCCE to accomplish the projects. The timeframe(s) of deposit shall be mutually agreeable by the Parties, in each Operating Year.

3.5.3 Any amounts deposited into the Escrow Account by the County, for Deferred Maintenance, shall be utilized for the projects included in Exhibit "C", and shall not be utilized for any other projects or purposes without express written approval by the County. SJCCE's ability to draw down funds from the Escrow Account shall be contingent upon confirmation with the Escrow Agent that the draw down requests complies with Exhibit "C", and this Contract. Funds as defined within the Deferred Maintenance Program can be used for both direct and indirect cost of completing Deferred Maintenance projects. Flexibility to apply funds from one project to another within the Deferred Maintenance Program as required to meet construction cost variation shall be permitted.

3.5.4 Any amounts deposited into the Escrow Account by the County, are subject to removal by the County based upon unsatisfactory performance by SJCCE.

### **3.6 Capital Improvements**

3.6.1 The Parties agree that SJCCE shall submit in their Annual Budget any and all Capital Improvement projects which require funding in excess of the amounts contemplated in this Section, for coordination with the County to determine the best approach for timely appropriation of funds.

3.6.2 The County agrees to deposit \$9,135,806, minus any costs assumed for the project by the end of County Fiscal Year 2023, in an Escrow Account, from amounts currently appropriated, and to be appropriated in Fiscal Year 2025, by the County for the Ponte Vedra Concert Hall renovation project, based upon the conceptual cost estimate provided from Fisher Kopenhagen Architecture and Interior Design dated August 8, 2023. The timeframe(s) of deposit for these funds shall be mutually agreeable by the Parties.

### **3.7 County Funding**

3.7.1 All amounts provided in this Article III are subject to availability of funding, and the County's budget approval and adoption process for each Fiscal Year.

3.7.2 The Parties agree to review and negotiate the level of County Funding, along with potential opportunities for revenue sharing, in FY 2025, for considerations in FY 2026.

## **ARTICLE IV TERM AND TERMINATION**

### **4.1 Term**

4.1.1 This Contract shall have a term commencing on the Effective Date and shall expire on September 30, 2050, unless earlier terminated in accordance with the provisions specified herein. Additionally, this Contract may be renewed, upon mutual agreement by both Parties, in five (5) year renewal terms, for an unlimited number of renewal terms.

### **4.2 Termination**

4.2.1 This Contract may be terminated, in accordance with the requirements of this Section, for cause, convenience, lack of appropriation, or by mutual consent of the Parties.

4.2.3 Either Party may terminate this Contract for cause or default of the other Party. In the event of a Party's default, the non-defaulting Party shall issue a Notice of Default, in writing, to the other Party, articulating details of the failure by the defaulting Party to perform or comply with the material terms, covenants, agreements or conditions of the Contract Documents. The defaulting Party shall have thirty (30) calendar days from the receipt of Notice of Default to cure the deficiencies, or submit, in writing, an acceptable plan for curing the deficiencies identified in said notice. If the defaulting Party fails to cure such deficiencies, or to submit an acceptable plan for curing such deficiencies, to the satisfaction of the non-defaulting Party within the stated time period, the non-defaulting Party shall issue a Notice of Termination, stating the date this Contract shall be terminated for cause.

4.2.3 The County may terminate this Contract immediately by written notice upon SJCCE being adjudged bankrupt or

insolvent; or if any receiver or trustee of all or any part of SJCCE's property shall be appointed and shall not be discharged within one hundred twenty (120) calendar days after appointment; or if SJCCE makes an assignment of its property for the benefit of creditors; or if SJCCE files a voluntary petition of bankruptcy or insolvency or applies for bankruptcy under the bankruptcy or insolvency Laws now in force or hereinafter enacted, or if such petition is filed against SJCCE and shall not be dismissed within one hundred twenty (120) calendar days after such filing.

### **4.3 Effect of Termination**

4.3.1 Upon termination of this Contract for any reason listed above in Section 4.2:

4.3.1.1 SJCCE shall promptly discontinue the performance of all services hereunder, upon the date set for termination;

4.3.1.2 County shall reimburse SJCCE for any outstanding, unreimbursed expenses advanced by SJCCE, provided that amount(s) may be adjusted to offset costs to the County caused by SJCCE's default;

4.3.1.3 County shall promptly (and in any event no later than thirty (30) calendar days) reimburse SJCCE for all reasonable and customary expenses arising out of termination, provided that amount(s) may be adjusted to offset costs to the County caused by SJCCE's default;

4.3.1.4 SJCCE shall make available to the County all data, electronic files, documents, procedures, reports, estimates, summaries, and other such information and materials with respect to this Contract as may have been accumulated by SJCCE during the Term of this Contract in performing its obligations hereunder, whether completed or in process;

4.3.1.5 County shall make available to SJCCE all books and records relating to this Contract for the Term of this Contract, but in no event shall the County be required to provide records for more than five (5) years prior to the termination;

4.3.1.6 County and SJCCE immediately shall take all steps reasonably requested by the other Party to disassociate the Venue and all Events associated with this Contract from any marketing, advertising, branding, or trademarks owned by SJCCE, or any of its Affiliates, and SJCCE shall delete all trademarks owned by SJCCE or any of its Affiliates, if any, from the Venue's or Event's names (including all exterior or interior signage bearing any of the trademarks owned by SJCCE or any of its Affiliates); and

4.3.1.7 Without any further action on the part of SJCCE or the County, County shall have the absolute discretion to determine the future operation and management of the Venue and/or any Events, including any and all expenditures, contracts, agreements, arrangements or other obligations that were previously under the purview of this Contract, which may or may not be in place at the time of Notice of Termination.

4.3.2 Any obligations of the Parties that are specifically intended to survive termination of this Contract shall survive termination hereof.

4.3.3 The rights and remedies of the County provided in this Section 4 are in addition to any other rights and remedies provided by law or under this Contract.

4.3.4 In the event of a Notice of Termination, SJCCE shall suspend any and all financial transactions that have not been completed, shall not initiate any new transactions, and shall not remove from the Venue, any materials, equipment, furniture, files, supplies, or other items that have been purchased pursuant to this Contract.

## **ARTICLE V OWNERSHIP; USE OF THE VENUE**

### **5.1 Ownership of Venue, Data, Equipment and Materials**

5.1.1 The County shall at all times retain ownership of or leasehold interest in the Venue facilities, including the buildings and real estate, including improvements to the Venue completed as described herein, throughout the Term of this Contract, unless otherwise amended as provided herein. Ownership of technical equipment, furniture, displays, fixtures, vehicles, and similar property, shall transfer to SJCCE upon execution of this Contract, and shall remain the property of SJCCE through

and until expiration or termination of this Contract. SJCCE shall maintain the Venue in good working order and condition. Any data, equipment, or materials furnished by the County to SJCCE shall be returned to the County when no longer needed by SJCCE to perform under this Contract, or upon receipt of Notice of Termination of this Contract.

## **5.2 Right of Use by SJCCE**

5.2.1 The County hereby assigns SJCCE the right and license to use the Venue, and SJCCE accepts such right of use, for the purpose of performing the services herein specified, which includes working cooperatively with the County for the operation and maintenance of all physical and mechanical facilities necessary for, and related to, the operation, maintenance, and management of the Venue.

## **5.3 Right of Use by County**

5.3.1 The County shall have the right to use the Venue, or any part thereof, rent-free, for meetings, seminars, training classes, or other non-commercial uses, provided the County provides reasonable notice to SJCCE of the County's need to utilize the Venue, or any part thereof, and such use does not create undue hardship on SJCCE's scheduling of Events at the Venue.

5.3.2 Any non-commercial use of the Venue by the County shall:

5.3.2.1 Not compete with or conflict with the dates previously booked by SJCCE for paying events; and

5.3.2.2 Not consist of normally touring attractions (such as concerts or family shows);

5.3.3 SJCCE shall make all reasonable effort to make the venue available for the County. Upon request by the County, SJCCE shall provide a list of available dates for County's potential use of the Venue. SJCCE shall not artificially reserve and/or make unavailable any dates not currently booked in accordance with the approved Operations Manual. To the extent that SJCCE has an opportunity to book a revenue-producing Event on a date which is otherwise reserved for use by the County, SJCCE may propose alternative dates for the County's use, and the County shall use reasonable efforts to reschedule its use to allow SJCCE to book the revenue-producing Event.

5.3.4 SJCCE acknowledges and agrees that it shall, in no event, refuse the County access to the Venue for use as described herein. The County agrees to cover all hard costs (rent excluded), above \$500.00 for any of the uses listed in 5.3.1 and 5.3.2.

## **ARTICLE VI PERSONNEL**

### **6.1 Generally**

6.1.1 All staff and other personnel that shall be engaged for services required hereunder by SJCCE, shall be engaged or hired by SJCCE, and shall be employees, agents, or independent contractors of SJCCE, or Affiliates thereof, and not of the County. SJCCE shall select, in its sole discretion, but subject to the County's right to approve in good faith the Operating Budget, the number, function, qualifications, and compensation, including salary and benefits, of its employees and shall control the terms and conditions of employment, including without limitation, termination hereof, relating to such employees. SJCCE agrees to use commercially reasonable judgment in the selection and supervision of such personnel.

6.1.2 County agrees that SJCCE shall be entitled to pay its employees, as an Operating Expense, salaries and benefits in accordance with the Annual Budget for each Operating year.

6.1.3 SJCCE agrees to offer positions to those SJC Cultural Events Division staff who are satisfactorily performing in their current roles, and shall hire those individuals offered, who agree to employment with SJCCE. SJCCE is obligated to employ those individuals hired from the SJC Cultural Events Division staff for a period not less than eighteen (18) months, unless a termination for cause is required due to failure to perform, as determined by SJCCE.

### **6.2 Chief Executive Officer "CEO"**

Personnel engaged by SJCCE must include an individual with managerial experience in similar facilities to serve as the full-time, on-site CEO of the Venue. The CEO will have general supervisory responsibility for SJCCE and will be responsible for day-to-day operations of the Venue, supervision of employees, and management and coordination of all activities associated with Events taking place at the Venue, or any other locations utilized for Cultural Series or other Events.

### **6.3 Employment Eligibility and Mandatory Use of E-Verify**

As a condition precedent to entering into this Contract, and in accordance with section 448.095, F.S., SJCCE and its Affiliates, and Sub-contractors shall register with and use the E-Verify system to verify the work authorization status of all employees hired on or after the Effective Date.

- a. SJCCE shall require each of its subcontractors to provide SJCCE with an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. SJCCE shall maintain a copy of such affidavit for the duration of this Contract.
- b. The County, SJCCE, or any Affiliate or Sub-contractor who has a good faith belief that a person or entity with which it is contracting has knowingly violated section 448.09(1), F.S. or these provisions regarding employment eligibility shall terminate the contract with the person or entity.
- c. The County, upon good faith belief that a subcontractor knowingly violated these provisions regarding employment eligibility, but SJCCE otherwise complied, shall promptly notify SJCCE and SJCCE shall immediately terminate the contract with the Affiliate or Sub-contractor.
- d. The County and SJCCE hereby acknowledge and mutually agree that, a contract terminated pursuant to these provisions regarding employment eligibility is not a breach of contract and may not be considered as such. Any contract terminated pursuant to these provisions regarding employment eligibility may be challenged in accordance with section 448.095(2)(d), F.S.
- e. SJCCE acknowledges that, in the event that the County terminates this Contract for SJCCE's breach of these provisions regarding employment eligibility, then SJCCE may not be awarded a public contract for at least one (1) year after such termination. SJCCE further acknowledges that SJCCE is liable for any additional costs incurred by the County as a result of the County's termination of this Contract for breach of these provisions regarding employment eligibility.
- f. SJCCE shall incorporate in all subcontracts made pursuant to this Contract the provisions contained herein regarding employment eligibility.

#### **6.4 Equal Employment Opportunity**

During the performance of this Contract, SJCCE agrees as follows:

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

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

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

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

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

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

6.4.7 In the event of SJCCE 's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be cancelled, terminated or suspended and SJCCE may be declared ineligible by the County for further contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

6.4.8 SJCCE will include the provisions of paragraphs 6.4.1 through 6.4.7 above in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. SJCCE will take such action with respect to any subcontractor or vendor as may be directed to the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event SJCCE becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, SJCCE may request the United States to enter into such litigation to protect the interest of the United States.

## **ARTICLE VII ANNUAL BUDGET**

### **7.1 Establishment of Annual Budget**

7.1.1 SJCCE shall make all reasonable efforts to submit an Annual Budget to the County no later than May 1<sup>st</sup> of each Operating Year, for the following Operating Year. In the event a complete Annual Budget cannot be submitted by May 1<sup>st</sup>, SJCCE shall make its best efforts to submit a completed Annual Budget at least ten (10) business days prior to the County's Recommended Budget being presented to the Board. Each Annual Budget shall include SJCCE's good faith projections for all components of the line item budget, including all Operating Expenses, Operating Revenues, Event Expenses, Event Revenues, Annual Maintenance, Deferred Maintenance, and Capital Expenditures, presented on an annual basis, which must provide sufficient detail and information to support the figures and amounts included in the budget. The County agrees to provide SJCCE with any information in its possession to assist SJCCE in preparing the Annual Budget each year.

7.1.2 SJCCE shall meet with the County as needed to workshop, depending on the annual budget for the coming fiscal year, and to seek to collaborate on future events and projects.

7.1.3 SJCCE may present amendments to the Annual Budget to the County, at any point during any Operating Year, to account for unanticipated revenues, unforeseen expenses or significant impacts or alterations to the Annual Budget.

### **7.2 County's Rights related to the Annual Budget**

7.2.1 The County reserves the rights to request additional information and any documentation necessary to fully understand the data presented by SJCCE in the Annual Budget. SJCCE is required to submit any such information and/or documentation to the County, as requested, within seven (7) calendar days of such request.

7.2.1.1 The Annual Budget shall provide a breakdown of funding requests for the County, in the categories expressed herein in Section 3.

7.2.1.2 The initial Annual Budget, for Operating Year 2024, shall be extracted from SJCCE's Business Plan. All subsequent Annual Budgets shall be submitted by SJCCE as provided herein.



7.2.2 While the County is not required to approve the Annual Budget, the County does reserve the right to request or require SJCCE to make changes to line item(s) included in the Annual Budget, if SJCCE does not provide sufficient justification or documentation to support the line item(s) as presented. SJCCE agrees to cooperate fully with the County to revise and/or explain the Annual Budget in order to ensure the County's understanding and concurrence with the items included in the Annual Budget, so that both Parties can resolve any matters related to the Annual Budget to the mutual satisfaction of both Parties.

### **7.3 Adherence to Annual Budget**

7.3.1 SJCCE shall use all reasonable efforts to manage and operate the Venue, and perform all services pursuant to this Contract in accordance with the Annual Budget. SJCCE agrees to make every reasonable effort to provide the County with thirty (30) calendar days advance written notice of any significant impacts to SJCCE's ability to adhere to the Annual Budget, including any material increase in the expenses identified in the Annual Budget. In the event such notice is impossible due to an emergency, SJCCE must provide the County with such written notice within fifteen (15) calendar days of any such impact. In such event, SJCCE agrees to work with the County to develop and implement a plan, or changes to the then current plan, to increase Revenues, and/or limit/reduce Operating or Event Expenses to be incurred in the remaining months of such Operating Year with the goal of completing the Operating Year in accordance with the Operating Budget.

7.3.2 If a Force Majeure Event occurs during any Operating Year, which results in a material decline in anticipated Revenue or a material increase in anticipated Operating or other Expenses, SJCCE shall submit an amendment to the Annual Budget to the County.

## **ARTICLE VIII PROCEDURE FOR HANDLING INCOME**

### **8.1 Event Account**

8.1.1 SJCCE shall deposit, as soon as practicable, but not less than once each business day, in the Event Account, all revenues received from Event Revenues, which SJCCE receives in contemplation of, or arising from, an Event. Such monies will be held in escrow for the protection of ticket purchasers, the County and SJCCE, to provide a source of funds as required for payments to performers and for payments of direct Event Expenses pertaining to the Event, which must be paid prior to or contemporaneously with such Event. Promptly following completion of the Event, and payment of all Event Expenses, but in no event more than thirty (30) calendar days following completion of the Event, SJCCE shall transfer all funds remaining in the Event Account, including any interest accrued thereon, into the Revenue Fund. Bank service charges, if any, on such account(s) shall be deducted from interest earned.

### **8.2 Flow of Funds**

All Revenues derived from operation of the Venue shall be deposited by SJCCE into the Revenue Fund, as soon as practicable, but not less than once each business day. The specific procedures for making deposits to and withdrawals from such accounts shall be set forth in the Operations Manual.

### **8.3 Cash Control**

SJCCE shall institute and maintain written cash control policies and procedures (i.e. internal controls) in the Operations Manual, which shall govern the responsible safekeeping, management and accounting for all funds handled by its employees and agents.

## **ARTICLE IX FISCAL RESPONSIBILITY; REPORTING**

### **9.1 Records**

SJCCE agrees to keep and maintain separate and independent records, in accordance with generally accepted accounting principles, devoted exclusively to its operations in connection with its management of the Venue, and performance of services pursuant to this Contract. Such records, including but not limited to books, ledgers, journals, and accounts, shall contain all entries reflecting the business operations of SJCCE under this Contract. The County, or their authorized agents shall have the right to audit and inspect such records from time to time during the Term, upon three (3) working days' notice to SJCCE, and during SJCCE's ordinary business hours. SJCCE shall keep and preserve for at least three (3) years following each Operating Year, or for as long as such records are required to be retained pursuant to Florida Public Records Law (whichever is longer), all sales slips, rental and/or other use agreements, purchase orders, sales books, credit card invoices, bank books or duplicate deposit slips, and other evidence of Operating Expenses and Revenues.

## 9.2 Financial Reports

SJCCE agrees to provide the County twice each year, at six-month intervals, financial reports for the services performed pursuant to this Contract, including a balance sheet, aging report on accounts receivable for such month and year to date, and statement of revenues and expenditures (budget and actual) for year to date in accordance with generally accepted accounting principles, a statement of Event Revenues and Event Expenses, itemized by Event, for year to date.

## 9.3 Audit

SJCCE shall, following the end of each Operating Year, arrange for a certified audit report, from a licensed CPA firm on the accounts and records as kept by SJCCE for the services performed pursuant to this Contract. SJCCE shall cooperate fully with the CPA firm conducting the audit, providing full access to the books and records related to funds and accounts required for the audit to be completed. Costs associated with obtaining such certified audit report shall be borne by SJCCE as an Operating Expense. Such audit shall be performed by an external auditor mutually agreed upon by the Parties, and shall be conducted in accordance with generally accepted auditing standards. Audit reports shall be submitted to both SJCCE and County as soon as practicable, but in no event more than fourteen (14) calendar days after the completion of the audit.

## 9.4 Public Records

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

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

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

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

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

## ARTICLE X CAPITAL IMPROVEMENTS

### 10.1 Schedule of Capital Improvements

SJCCE shall provide in the Annual Budget a schedule of proposed Capital Expenditures to be made at the Venue, for the

purpose of allowing the County to consider such projects and to prepare and update a long-range Capital Expenditure Budget.

## **10.2 Responsibility for Capital Expenditures**

10.2.1 SJCCE shall be solely responsible for all Capital Expenditures at the Venue, which are included in the Annual Budget submitted and accepted by the County. However, the County shall be under no obligation to accept and/or include in the funds conveyed to SJCCE, any amounts for Capital Expenditures proposed by SJCCE. Additionally, the County shall have no liability for any claims, costs or damages arising out of a failure by SJCCE to make any Capital Improvements. SJCCE shall have the responsibility to make emergency repairs to the Venue, upon discovery, and may request an amendment to the Annual Budget in order to accommodate any expenditures made for such emergency repairs.

10.2.1.1 For the purposes of this Contract, emergency repairs shall be classified as those repairs which are necessitated by an immediate threat to health, safety and welfare of staff and patrons of the Venue; an immediate threat of property or other substantial loss to the County or SJCCE.

10.2.2 For Capital Improvements in excess of \$150,000, SJCCE is required to submit a written scope of work for the project and a complete construction estimate to the County's Facilities Management Director, or designee, for review and approval prior to proceeding with any expenditures or contracts related to the project.

10.2.3 For Capital Improvements in excess of \$1,000,000, SJCCE is required to submit the project as part of the long-range Capital Improvement Plan, in the submitted Annual Budget, at least one (1) full Operating Year prior to the Operating Year in which SJCCE plans to accomplish the Capital Improvement.

## **10.3 Capital Assets**

10.3.1 The County, by approval of the Board of County Commissioners, and execution of this Contract, transfers ownership title of the Capital Assets listed on Exhibit "A", attached hereto, along with all other operational, non-capital equipment, materials, and supplies, to SJCCE to use in performing their duties and responsibilities under this Contract.

10.3.2 SJCCE agrees to maintain the Capital Assets listed on Exhibit "A", and any Capital Assets purchased under this Contract, in good working condition, in accordance with the Deferred Maintenance Schedule, and Annual Maintenance Schedule, as applicable. SJCCE may replace Capital Assets and non-capital equipment, materials, and supplies, as necessary, due to end of useful life, disrepair, or inoperability, in order to perform the Scope of Services in accordance with this Contract.

10.3.3 SJCCE shall provide an updated Exhibit "A", prior to the start of each Operating Year, depicting the then-current list of Capital Assets.

10.3.4 Upon expiration or termination of this Contract, SJCCE shall transfer ownership of all Capital Assets, as provided on the most current Exhibit "A", under this Contract, back to the County.

## **ARTICLE XI VENUE CONTRACTS; TRANSACTIONS WITH AFFILIATES**

### **11.1 Existing Contracts**

11.1.1 Any Existing Contracts held between the County and third-parties, for the performance of services at the Venue, shall be assigned to SJCCE, upon mutual by the parties of each contract, with the exception of those Existing Contracts, which expire as of September 30, 2023. SJCCE shall be responsible for addressing any necessary change in each assigned contract, as needed to ensure correct application of the contract for SJCCE's successful operation as provided herein. The Existing Contracts are provided herein on Exhibit "F".

11.1.2 In addition to the Contracts listed on Exhibit "F", any Performance Agreements executed by the County prior to October 1, 2024, for performances scheduled to take place after October 1, 2024 shall be assigned to SJCCE, unless otherwise approved by the County Administrator, in writing.

### **11.2 Execution of Contracts**

11.2.1 SJCCE shall have the right and obligation to enter into Service Contracts, Revenue Generating Contracts, and other contracts related to the operation of the Venue, including but not limited to: contracts for construction of Capital

Improvements. No contracts entered into by SJCCE shall name the County as a Party to the contract, nor shall the contract identify SJCCE as an agent of the County.

11.2.2 Any contracts entered into by SJCCE shall contain standard indemnification and insurance obligations on the part of each supplier, contractor, consultant, licensee or service provider, as is customary for the type of services or obligations being provided or performed by such parties. The Expenses and/or Revenues contemplated in each contract entered into by SJCCE should be reflected, at minimum as a projection, in the Annual Budget submitted to the County. No contract entered into by SJCCE shall extend beyond the Term, or any Renewal Term of this Contract.

11.2.3 For any services required by a third-party, SJCCE shall develop written Procurement and Contracts Procedures, which shall be incorporated into the Operations Manual, throughout the duration of this Contract. SJCCE is required to conduct any and all Procurements in accordance with the requirements set out in the Operations Manual.

### **11.3 Transactions with Affiliates**

In connection with its obligations hereunder relating to the purchase or procurement of services for the Venue, SJCCE may purchase or procure such services, or otherwise transact business with an Affiliate of SJCCE, provided that the prices charged and services rendered by such Affiliate are competitive within the appropriate market for the specified services. SJCCE shall provide, within five (5) business days of request from the County, reasonable evidence establishing the competitive nature of such prices and services, including, if appropriate, competitive bids from other Suppliers seeking to render such services at the Venue.

## **ARTICLE XII AGREEMENT MONITORING AND CONTRACT ADMINISTRATOR**

### **12.1 Contract Administrator**

Each party shall appoint a person who shall monitor such party's compliance with the terms of this Contract, ("Contract Administrator"). SJCCE's Contract Administrator shall be its CEO at the Venue, unless SJCCE notifies the County of a substitute Contract Administrator in writing. The County's Contract Administrator shall be the County Representative, as defined herein. Any and all references in this Contract requiring SJCCE or County participation or approval shall mean the participation or approval of such party's Contract Administrator, unless specifically stated otherwise herein.

## **ARTICLE XIII INDEMNIFICATION**

### **13.1 Indemnification by SJCCE**

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

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

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

13.1.4 In Claims against any person or entity indemnified hereunder by an employee of SJCCE, any Sub-contractor, or subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 14.1 shall not be limited by a limitation on the amount or type of damages, compensation or benefits payable by or for SJCCE or any Sub-contractor under any workers' compensation acts, disability benefits acts or other employee benefit acts.

13.1.5 SJCCE's indemnity and hold harmless obligations hereunder shall extend to all Claims against the County by any third-party pursuant to this Contract.

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

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

13.1.8 SJCCCE shall further indemnify and hold harmless the County its officers and employees from and against all Claims arising out of any infringement of patent rights or copyrights incident to SJCCCE's performance under this Contract, and shall defend such Claims in connection with any alleged infringement of such rights.

13.1.9 The indemnification provisions of this Section 14.1 shall survive expiration or earlier termination of this Contract.

### **13.2 Indemnification by County**

To the extent permitted by Law and without increasing the liability of the County, the County agrees to defend, indemnify and hold harmless SJCCCE and its managers, directors, officers, employees, agents, successors, and assigns against losses suffered by such parties, arising out of or in connection with any breach by the County or any of its representations, covenants, or agreements made herein. Amounts payable by the County pursuant to this Section 13.2 shall be payable from Revenues.

### **13.3 Conditions to Indemnification**

13.3.1 With respect to each separate matter brought by any third party against a party ("Indemnitee") is indemnified by the other party ("Indemnitor") under this Article 13, the Indemnitor shall be responsible, at its sole cost and expense, for controlling, litigating, defending, and/or otherwise attempting to resolve any proceeding, claim, or cause of action underlying such matter, except that (a) the Indemnitee may, at its option, participate in such defense or resolution at its expense and through counsel of its choice; (b) the Indemnitee may, at its option, assume control of such defense or resolution if the Indemnitor does not promptly or diligently pursue such defense or resolution, provided that the Indemnitor shall continue to be obligated to indemnify the Indemnitee hereunder in connection therewith; and (c) neither Indemnitor nor Indemnitee shall agree to any settlement without the other's prior written consent, which shall not be unreasonably withheld or delayed), unless such settlement:

- (i) Includes an unconditional release of Indemnitor from all liability arising out of such claim;
- (ii) Does not contain any admission or statement suggesting any wrongdoing or liability on behalf of Indemnitor; and
- (iii) Does not contain any equitable order, judgment, or term, other than the fact of payment or the amount of such payment, that in any manner affects, restrains, or interferes with the business of Indemnitor or any of Indemnitor's Affiliates.

13.3.2 In any event, Indemnitor and Indemnitee shall in good faith cooperate with each other and their respective counsel with respect to all such actions or proceedings, at the Indemnitor's expense. With respect to each and every matter with respect to which any indemnification may be sought hereunder, upon receiving notice pertaining to such matter, Indemnitee shall promptly, and in no event more than twenty (20) calendar days after any third-party litigation is commenced asserting such claim, give reasonably detailed written notice to the Indemnitor of the nature of such matter and the amount demanded or claimed in connection therewith.

### **13.4 Survival**

The obligations of the Parties contained in this Article 13 shall survive the expiration or earlier termination of this Contract.

## **ARTICLE XIV INSURANCE**

### **14.1 SJCCCE's Insurance Requirements**

14.1.1 All insurance policies shall be satisfactory to the County and be issued by companies authorized and duly licensed to transact business in the State of Florida, with a general policy holding rating of not less than A-1, and a financial rating of not less than Class VIII in the most current available "Bests" Insurance guide, or as otherwise agreed to by the Parties.

SJCCE shall furnish proof of insurance to the County prior to execution of this Contract. This Contract shall not be considered in effect until SJCCE has obtained all insurance coverages required under this section. Certificates of insurance shall clearly indicate SJCCE has obtained insurance of the type, amount, and classification as required by this Contract. Required insurance coverage shall be maintained in force, including coverage for Additional Insureds, until expiration or earlier termination of this Contract.

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

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

#### **14.2 Additional Insured Endorsements and Certificate Holder**

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

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

#### **14.3 Workers Compensation & Employer’s Liability**

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

#### **14.4 Commercial General Liability**

SJCCE shall procure and maintain during the life of this Contract, Comprehensive General Liability Insurance with minimum limits of \$2,000,000 per occurrence, \$4,000,000 aggregate, including bodily injury (including wrongful death), property damage, products, personal & advertising injury, and completed operations. This insurance must provide coverage for all Claims that may arise from the services and/or operations completed under this Contract, whether such services or operations are by SJCCE or anyone directly or indirectly employed by them. Such insurance(s) shall also be primary and non-contributory with regard to insurance carried by the Additional Insureds.

#### **14.5 Automobile Liability**

SJCCE shall procure and maintain during the life of this Contract, Comprehensive Automobile Liability Insurance with minimum limits of \$1,000,000 combined single limit for bodily injury and property damage liability and insuring liability arising out of or in any way related directly or indirectly to the ownership, maintenance or use of any owned, non-owned or rented/hired automobiles.

#### **14.6 Liquor Liability**

SJCCE shall procure and maintain during the life of this Contract, Liquor Liability Insurance with minimum limits of \$3,000,000 per occurrence, and \$5,000,000 aggregate. SJCCE shall maintain, at SJCCE’s expense, insurance for bodily injury and property damage for Liquor Liability host alcohol.

#### **14.7 Professional Liability**

14.7.1 SJCCE shall procure and maintain, during the life of this Contract, Professional Liability or Errors and Omissions Insurance with minimum limits of \$1,000,000. Upon expiration or termination of the Professional Liability/Errors and Omissions Insurance, SJCCE must obtain Tail Coverage for a period of four (4) years, as determined by the County.

14.7.2 In the event SJCCE employs or hires professional engineers, architects, surveyors, or landscape architects for performance of professional services, SJCCE shall require each firm to carry Professional Liability or Errors and Omissions

Insurance with limits not less than \$1,000,000 each claim with respect to negligent acts, errors, or omissions in connection with professional services to be provided under this Contract.

#### **14.8 Cyber Liability**

14.8.1 SJCCCE shall procure and maintain, during the life of this Contract, Cyber Liability & Data Storage Insurance with minimum limits of \$1,000,000 per occurrence, \$2,000,000 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 herein.

#### **14.9 Employee Dishonesty Coverage**

14.9.1 SJCCCE shall procure and maintain, during the life of this Contract, Employee Dishonesty Liability Coverage with minimum limits of \$1,000,000.

#### **14.10 Other Requirements**

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

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

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

### **ARTICLE XV REPRESENTATIONS; WARRANTIES, AND COVENANTS**

#### **15.1 SJCCCE Representations, Warranties and Covenants**

15.1.1 SJCCCE hereby represents, warrants and covenants to the County as follows:

- (i) that it has the full legal right, power, and authority to enter into this Contract, and to grant the rights and perform the obligations of SJCCCE herein, and that no third-party consent or approval is required to grant such rights or perform such obligations hereunder; and
- (ii) that this Contract has been duly executed and delivered by SJCCCE and constitutes a valid and binding obligation of SJCCCE, enforceable in accordance with its terms, except at such enforceability may be limited by bankruptcy, insolvency, reorganization or similar Laws affecting creditors' rights generally or by general equitable principles.
- (iii) that SJCCCE has conducted due diligence with respect to the costs, risks and uncertainties of developing, constructing, operating and maintaining the Venue and evaluated the demand for, and the financial prospects of the Venue utilizing its personnel, advisors, contractors, resources, experience and expertise and available information provided by the County.
- (iv) that SJCCCE acknowledges and agrees that the County does not and will not guarantee or otherwise support or backstop in any way any obligations incurred by SJCCCE in the performance of its obligations, covenants, and agreements under this Contract or other contract or agreement relating to the Venue.
- (v) that SJCCCE will comply with all Applicable Laws pertaining to the management of the Venue, and services performed pursuant to this Contract.

#### **15.2 County Representations, Warranties and Covenants**

15.2.1 County represents, warrants, and covenants to SJCCE as follows:

- (i) That the County has the full legal right, power and authority to enter into this Contract and to grant the rights and perform the obligations of County herein, and that no other third-party consent or approval is required to grant such rights or perform such obligations hereunder.
- (ii) That this Contract has been duly executed and delivered by the County and constitutes a valid and binding obligation of the County, enforceable in accordance with its terms, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, or similar Laws affecting creditors' rights generally or by general equitable principles.
- (iii) That, to the best of the County's knowledge, the Venue is structurally sound, and is in good operating condition and repair. If the Venue is determined to be not structurally sound or in good operating condition and repair, the County agrees to work with SJCCE to identify the most appropriate way, that serves the best interests of both parties, and to determine the best way to fund, bringing the Venue into good operating condition and/or make it structurally sound.
- (iv) That the County and the Venue are in compliance with all Applicable Laws, including without limitation applicable environmental laws. All required permits, licenses, franchises, approvals, authorizations, registrations, and certificates for the Venue have been obtained by the County and are valid and in full force and effect.
- (v) That the County has not received any written notice of (i) violation of building codes, and/or zoning ordinances or other governmental or regulatory Laws affecting the Venue, (ii) existing, pending, or threatened condemnation proceedings affecting the Venue, or (iii) existing, pending or threatened zoning, building code or other moratorium proceedings, or similar matters which could reasonably be expected to materially and adversely affect the ability of SJCCE to operate the Venue as currently operated.

15.2.2 The County makes no covenant, representation, warranty or other undertaking with respect to demand for the Venue, the financial viability of the Venue, the nature, extent and success of efforts to market the Venue, the conduct of users or others of the Venue, or the cost to design, construct, own, manage, operate and maintain the Venue.

### **15.3 Acknowledgements**

15.3.1 SJCCE and the County each acknowledge and confirm to the other that:

- (i) NEITHER PARTY HAS MADE ANY PROMISES, REPRESENTATIONS, WARRANTIES, OR GUARANTIES OF ANY KIND WHATSOEVER TO THE OTHER PARTY, EXCEPT AS SPECIFICALLY SET FORTH HEREIN, AND NO PERSON IS AUTHORIZED TO MAKE ANY PROMISES, REPRESENTATIONS, WARRANTIES, OR GUARANTIES ON BEHALF OF EITHER PARTY, EXCEPT AS EXPRESSLY SET FORTH IN THIS CONTRACT.
- (ii) NEITHER PARTY HAS RELIED UPON ANY STATEMENTS OR PROJECTIONS OF REVENUE, SALES, EXPENSES, INCOME, PROFITABILITY, VALUE OF THE VENUE OR SIMILAR INFORMATION PROVIDED BY THE OTHER PARTY BUT HAS INDEPENDENTLY CONFIRMED THE ACCURACY AND RELIABILITY OF ANY SUCH INFORMATION AND IS SATISFIED WITH THE RESULTS OF SUCH INDEPENDENT CONFIRMATION.

## **ARTICLE XVI SUPPLIER DIVERSITY**

### **16.1 Supplier Diversity**

16.1.1 SJCCE shall encourage and facilitate, as much as practicable, supplier diversity with Service Contracts, including Capital Expenditures. SJCCE shall provide a fair and equal opportunity to compete for, or to participate in, management related services provided under this Contract. SJCCE shall include any and all procedures related to supplier diversity in the Procurement and Contracts Procedures, in the Operations Manual, and shall comply with such procedures throughout the duration of this Contract. SJCCE shall track annual expenditures with Minority Business Enterprises, Women-Owned Business Enterprises, Disadvantaged Business Enterprises, Small Business Enterprises, and shall include such data in the



submitted Reports as specified herein.

## ARTICLE XVII MISCELLANEOUS PROVISIONS

### **17.1 Environmental, Safety and Health**

17.1.1 Safety and Protection. SJCCE shall be solely and exclusively responsible for conducting operations under this Contract to avoid risk of harm to the health and safety of persons and property and for inspecting, supervising and monitoring all equipment, materials in use at the Venue, or in the performance of services under this Contract, work practices and safety precautions, including but not limited to adequate maintenance of traffic, used in the operation of the Venue, or in the performance of Services under this Contract. SJCCE shall provide or cause to be provided necessary training and furnish all safety equipment/tools, including OSHA compliant and ANSI certified personal protective equipment as appropriate and necessary for the performance of the services pursuant to this Contract, to its Sub-contractors of every tier and enforce the use of such training and safety equipment/tools.

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

### **17.2 Use of Venue Names and Logos**

SJCCE shall have the right to use, and may permit others to use in furtherance of SJCCE's obligations hereunder, throughout the Term of this Contract, for no charge, the name and all logos of the Venue as approved in writing by the County, on SJCCE's stationary, in its advertising of the Venue, and whenever conducting business of the Venue; provided, that SJCCE shall take all prudent and appropriate measures to protect the Intellectual Property Rights of the County, relating to such logos. All Intellectual Property Rights in any Venue logos developed by SJCCE or the County shall be and at all times remain the sole and exclusive property of the County. SJCCE agrees to execute any documentation requested by the County from time to time to establish, protect, or convey any such Intellectual Property Rights.

### **17.3 Venue Advertisements**

The County shall make its commercially reasonable efforts in all advertisements placed by the County or Affiliates for the Venue or Events at the Venue, whether such advertisements are in print, on radio, television, the internet or otherwise, it shall include a designation that the Venue is a "managed Venue".

### **17.4 Force Majeure; Casualty Loss**

17.4.1 Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Contract due to a Force Majeure Event, provided that the party claiming failure or inability to perform provides written notice to the other party within three (3) business days of the date on which such party gains actual knowledge of such Force Majeure Event. Notwithstanding the foregoing, in no event shall a party's failure to make payments due hereunder be excusable due to a Force Majeure Event.

17.4.2 In the event of damage or destruction to a material portion of the Venue due to a Force Majeure Event that renders the Venue, or a material portion thereof untenable, the County shall use reasonable efforts to remedy such situation. If notwithstanding such efforts, such damage or destruction is expected to render the Venue, or a material portion thereof, untenable for a period estimated by a licensed architect selected by the County at SJCCE's request, of at least one hundred eighty (180) calendar days from the date of such Force Majeure Event, either party may terminate this Contract upon written notice to the other, provided that (i) the County shall pay to SJCCE its costs of withdrawing from services hereunder, as described in Section 4.3 and above, and (ii) in the event the Venue once again becomes tenantable at any time during the Term, this Contract shall, and upon agreement by the parties, once again become effective and SJCCE shall manage and operate the Venue under the terms hereof, except that the Term may be extended for a period in time which the Venue was closed.

17.4.3 In the event that a Force Majeure Event requires the Venue to be used as a disaster shelter, SJCCE agrees to honor and facilitate the County's commitment for such use. The parties shall cooperate in good faith to minimize the disruption to all business activities and to postpone and reschedule Events as necessary. Neither party shall be liable or responsible to the other party for any delay, loss, damage, failure or inability to perform under this Contract due to the use of the Venue as a

disaster shelter. In the event the Venue is utilized as a “special needs shelter” which results in a material decline in Revenue or a material increase in Operating Expenses in any Operating Year, the parties shall in good faith discuss changes to the Operating Budget for such Operating Year, so that neither party is financially harmed by such use.

### **17.5 Assignment**

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

### **17.6 Sale of County Property and First Right of Refusal**

The County agrees to afford SJCCE with the first right of refusal for any sale of Cornerstone Park or the Ponte Vedra Concert Hall building and appurtenances.

### **17.7 Notices**

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

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

St. Johns County Purchasing  
500 San Sebastian View  
St. Augustine, FL 32084  
Attn: Jaime Locklear, Asst. Director  
Email Address: [jlocklear@sjcfl.us](mailto:jlocklear@sjcfl.us)

SJC Cultural Events, Inc  
1030 N Ponce De Leon Blvd  
St. Augustine, FL 32084  
Attn: Dylan Rumrell, Chairman  
Email Address: [drumrellsta@gmail.com](mailto:drumrellsta@gmail.com)

*With a copy to:*

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

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

### **17.8 Severability**

If a court of competent jurisdiction determines that any provision of this Contract is invalid or unenforceable to any extent under Applicable Law, the remainder of this Contract, and the application of this Contract to other circumstances, shall not be affected thereby, and each remaining provision shall be valid and enforceable to the fullest extent permitted by law.

### **17.9 Governing Law and Venue**

The Contract shall be governed by the laws of the State of Florida. Venue for any administrative and/or legal action arising under this Contract shall be St. Johns County, Florida, and the parties hereby consent to the jurisdiction thereof. In the event of a dispute arising out of or in connection with this Contract, the parties agree to first submit the matter to mediation under the Florida Mediation Rules to be held in St. Johns County, Florida.

### **17.10 Amendments**

This Contract may not be modified, amended, changed or supplemented, nor may any obligations hereunder be waived or extensions of time for performance granted, except by written Amendment signed by Authorized Representatives of both parties. No waiver of any default or breach of this Contract or provision herein contained shall be deemed a waiver of any preceding or succeeding default or breach thereof or of any other provision herein contained. No extension of time for performance of any obligations or acts shall be deemed an extension of the time for performance of any other obligations or acts.

### **17.11 Waiver; Remedies**

The delay or failure by either party to exercise or enforce any of its rights or remedies under this Contract shall not constitute or be deemed a waiver of the party's right thereafter to enforce those rights or remedies, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any other right or remedy. The conduct of the parties to this Contract after the Effective Date shall not be deemed a waiver or modification of this Contract. 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. The remedies provided in this Contract are cumulative and not exclusive of the remedies provided by law or in equity.

### **17.12 Relationship of Parties**

SJCCE and the County acknowledge and agree that they are not joint venturers, partners, or joint owners with respect to the Venue, and nothing contained in this Contract shall be construed as creating a partnership, joint venture, or similar relationship between SJCCE and the County. Furthermore, SJCCE is not, nor shall they become an agent of the County in performing the Services related to this Contract.

### **17.13 No Third-Party Beneficiaries**

Other than the indemnitees listed under Article XIV herein, who are third-party beneficiaries solely with respect to the indemnification provisions therein, there are no intended third-party beneficiaries under this Contract, and no third-party shall have any rights or make any claims hereunder, it being intended that solely the parties hereto shall have the rights and may make claims hereunder.

### **17.14 Attorneys' Fees**

If any suit or action is instituted by either party hereunder, including all appeals, the prevailing party in such suit or action shall be entitled to recover reasonable attorneys' fees and expenses from the non-prevailing party, in addition to any other amounts to which it may be entitled.

### **17.15 Waiver of Jury Trial**

EACH PARTY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAWS, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF THIS CONTRACT OR THE TRANSACTIONS CONTEMPLATED HEREBY, WHETHER BASED ON CONTRACT, TORT, OR ANY OTHER THEORY. EACH PARTY (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT, OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER, AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTY HAVE BEEN INDUCED TO ENTER INTO THIS CONTRACT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

### **17.16 Limitation on Damages**

In no event shall either party be liable or responsible for any consequential, indirect, incidental, punitive, or special damages, including, without limitation, lost profits, whether based upon breach of contract or warranty, negligence, strict tort liability or otherwise, and each party's liability for damages or losses hereunder shall be strictly limited to direct damages that are actually incurred by the other party.

### **17.17 Execution in Counterparts**

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

of an executed counterpart of this Contract and/or a signature page of this Contract by electronic image scan transmission (such as a "pdf" file) or through a County approved electronic signature service will be valid and effective as delivery of a manually executed counterpart of this Contract.

### **17.18 Non-Compete**

SJCCE agrees that it will in good faith book appropriate Events in the Venue in order to improve the profitability of the Venue. SJCCE also agrees that during the Term of this Contract, SJCCE will not enter into an agreement for management services of any other venue within a 75-mile radius of the Venue, if such agreement creates a conflict with SJCCE's ability to perform its obligations and responsibilities under this Contract. SJCCE agree to notify the County, at least thirty (30) days prior to entering into any agreement for management services of any other venue.

### **17.19 Confidentiality**

17.19.1 The County may, in an effort to maximize the efficiency of the transition of operations to SJCCE, transfer data, records, information, and other documents to SJCCE before and after the effective date of this Contract. In such event that SJCCE is in receipt of any data, records, information or other documents of a sensitive, confidential, protected or proprietary nature, ("Confidential Information") whether in application or provided in law, SJCCE shall not disclose or use any such information, except as reasonably necessary to perform its obligations or exercise its rights pursuant to this Contract, unless otherwise expressly approved in writing by the County. For the purposes of this Contract, this shall include any information that is exempt from disclosure in accordance with Florida Public Records Laws. This provision shall not apply to any data, records, information, or other documents that do not qualify for exemption from public records requirements.

17.19.2 Neither Party shall use Confidential Information for any purpose other than to facilitate this Contract. A Recipient of Confidential Information shall not: a) disclose such Confidential Information to any employee or contractor unless such person needs access to such information in order to perform their obligations hereunder, or pursuant to a contract which relates to obligations hereunder; or b) disclose Confidential Information to any third party without the prior written consent of the owner of the Confidential Information.

17.19.3 Each party shall protect Confidential Information with the same degree of care it uses to protect its own confidential information, but in no event using less than a reasonable standard of care.

17.19.4 The Parties agree that a breach of Confidentiality would cause irreparable injury, for which monetary damages would be inadequate. If a recipient of Confidential Information discloses or uses any Confidential Information of the other party in breach of Confidentiality protections hereunder, the other Party shall have the right, in addition to any other remedies available, to injunctive relief to enjoin such acts.

17.19.5 This Contract does not transfer ownership of any Confidential Information, nor does it grant a license or any other right thereto. Either Party which discloses Confidential Information shall retain all rights, title, and interest in and to all Confidential Information.

### **17.20 Information Security**

17.20.1 SJCCE will undertake reasonable information security steps, including, but not limited to, the following:

17.20.1.1 Upon request of the County, make available for review SJCCE's most recent SOC 2 audit report attesting to its internal security controls. In lieu of a 3<sup>rd</sup> party audit report, SJCCE may agree to provide an EDUCAUSE HECVAT or a CSA CAIQ assessment. SJCCE shall also make the following available for review by the Count:

- (i) Information Security Policy;
- (ii) Physical Security Policy;
- (iii) ISO Certification;
- (iv) PCI Certification

17.20.1.2 SJCCE will follow reasonable security measures to protect sensitive data in both hard copy and electronic formats. SJCCE will establish administrative, technical, and physical safeguards for the Venue's customer records and information in SJCCE's control or possession from time to time. Such safeguards shall be designed for the purpose of (1) ensuring the security of such information; (2) protecting against any anticipated threats or hazards to the security or integrity of such information; and (3) protecting against unauthorized access to or use of such information that would result in harm or

inconvenience to the County. SJCCE will ensure that all sensitive data stored on systems under its control will be encrypted while at rest and in transit. Prior to disposal, systems will be wiped using the NIST 800-88 standard. Sensitive data includes but is not limited to the following:

- (i) Personally Identifiable Information (SSN, DOB, Driver's License Number, Passport information);
- (ii) Medical Information (Medical Records, Doctor Names and Claims, Prescription Information);
- (iii) Academic Information (Transcripts, Grade Information);
- (iv) Business Information (Federal ID Numbers, Security Systems, Employee Identifiers, Passwords)
- (v) Financial Information (Credit Card Information, Bank Account Numbers)

17.20.1.3SJCCCE will adhere to the same information security requirements that the County must adhere to under the following privacy regulations, to the extent that SJCCCE has direct or indirect access to regulated information as part of its service:

- (i) Family Educational Rights and Privacy Act (FERPA);
- (ii) Fair and Accurate Credit Transactions Act (FACTA);
- (iii) Payment Card Industry (PCI);
- (iv) Health Insurance Portability and Accountability Act (HIPAA);
- (v) Gramm-Leach-Bliley Act (GLBA);
- (vi) General Data Protection Regulation (GDPR)

17.20.1.4SJCCCE will conduct background checks on all employees who may have access to sensitive data and train employees on information security best practices.

### **17.21 Public Statements for Matters Other Than Managed and Unmanaged Events**

The parties shall consult with each other on all nonevent press releases and other official written public statements related to the Venue, and neither party shall issue any such press release or statement without first providing the other party with a reasonable opportunity to review and comment upon such press release or statement.

### **17.22 No Waiver of Sovereign Immunity**

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

### **17.23 Anti-Bribery**

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

### **17.24 Convicted and Discriminatory Vendor Lists, and Scrutinized Companies**

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

17.24.2 Section 287.135 of the Florida Statutes prohibits agencies from contracting with companies for goods or services that are on the Scrutinized Companies that Boycott Israel List, or with companies that are engaged in a boycott of Israel, and from contracting with companies for goods or services of \$1,000,000 or more that are on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or are engaged in business operations in Cuba or Syria. The lists are created pursuant to §215.473 and §215.4725, F.S. By execution of this Contract, SJCCCE certifies that it is not listed on the Scrutinized Companies that Boycott Israel List, the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and is not engaged in a boycott of Israel or engaged in business operations in Cuba or Syria, and understands that pursuant to §287.135, F.S., the submission of a false certification may subject SJCCCE to civil penalties,

attorney's fees, and/or costs. In accordance with §287.135, F.S., the County may terminate this Contract if a false certification has been made, or the SJCCE is subsequently placed on any of these lists, or engages in a boycott of Israel or is engaged in business operations in Cuba or Syria.

**17.25 Survival**

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

**17.26 State Approval**

The execution of this Contract is contingent upon approval by the Florida Department of Environmental Protection, Division of State Lands, pursuant to Exhibit "F". The Parties agree that in the event approval from the Division of State Lands is not provided, that this Contract shall not be executed, until such time as the required approval is provided.

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OPERATIONS AND MANAGEMENT AGREEMENT  
Operation & Management Agreement No: \_\_\_\_\_

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

**St. Johns County, FL** \_\_\_\_\_ (Seal)  
(Typed Name)

**SJC Cultural Events, Inc** \_\_\_\_\_ (Seal)  
(Typed Name)

By: \_\_\_\_\_  
(Signature of Authorized Representative)

By: \_\_\_\_\_  
(Signature of Authorized Representative)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date of Execution)

\_\_\_\_\_  
(Date of Execution)

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

By: \_\_\_\_\_  
(Deputy Clerk)

\_\_\_\_\_  
(Date of Execution)

**Legally Sufficient:**

\_\_\_\_\_  
(Office of County Attorney)

\_\_\_\_\_  
(Date of Execution)

OPERATIONS AND MANAGEMENT AGREEMENT  
 Operation & Management Agreement No:

EXHIBIT A  
 Asset List

ASSET ID	DESCRIPTION	DATE ACQUIRED	BMI ROOM	LOCATION CODE	INITIAL COST
12585	18X32 CUSTOM SCEEN	08/29/07		EA0AMPHI	12,100.00
12586	HD PROJECTOR	08/29/07		EA0AMPHI	7,100.00
12587	HD PROJECTOR	08/29/07		EA0AMPHI	7,100.00
12588	7' METAL STAND	08/29/07		EA0AMPHI	1,500.00
12589	AUDIO VISUAL EQUIPME	08/29/07		EA0AMPHI	1,699.00
12622	LG 42" LCD HDTV	09/28/07		EA0AMPHI	1,599.99
12690	ICE MACHINE	12/27/07		EA0AMPHI	3,613.59
12772	12X24 HANDI HOUSE SH	04/08/08		EA0AMPHI	4,000.00
13195	ICE MACHINE	07/22/08		EA0AMPHI	2,660.00
13291	REFRIGERATOR	10/16/08		EA0AMPHI	2,585.00
13416	12X30 SHED	07/23/09		EA0AMPHI	4,400.00
13434	12'24' STORAGE SHED	08/21/09	13416	EA0AMPHI	1,275.00
14102	CV 1413 11 6X16 UTIL	10/24/11	CV 1413	EA0AMPHI	1,525.00
14968	TURBO DISK RECORDER	03/26/13		EA0AMPHI	1,000.00
15258	CV 1522 14 FORD EXPE	03/03/14	CV 1522	EA0AMPHI	26,943.00
15664	SONY VIDEO CAMERA	12/12/14		EA0AMPHI	7,895.00
15665	SONY REMOTE CONTROL	12/12/14		EA0AMPHI	1,250.00
15734	CONVECTION OVEN	11/19/14		EA0AMPHI	5,725.00
15735	60" RANGE W/24" GRID	11/19/14		EA0AMPHI	4,045.00
15736	KELVINATOR REFRIGERA	11/19/14		EA0AMPHI	2,514.00
15737	23CU FT FREEZER	11/19/14		EA0AMPHI	1,990.00
16445	PROJECTOR & LENS	09/27/16		EA0AMPHI	15,796.20
16446	18'X32' SCREEN	09/27/16		EA0AMPHI	3,522.99
16599	CV 1833 17 FORD TRAN	04/13/17	CV 1833	EA0AMPHI	29,059.00
16600	CV 1834 17 FORD TRAN	04/13/17	CV 1834	EA0AMPHI	29,059.00
16816	TS GATOR UTILITY VEH	11/22/17		EA0AMPHI	6,132.72
17004	AED PLUS	06/21/18	1ST AID RM	EA0AMPHI	1,011.23
17050	AED PLUS	06/21/18	TICKET BTH	EA0AMPHI	1,011.23
17084	AED PLUS	06/21/18	BACK STG	EA0AMPHI	1,011.23
18438	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18439	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18440	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18441	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18442	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18443	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18444	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18445	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18446	PORTABLE EVENT METAL	09/16/20		EA0AMPHI	3,545.00
18460	ICE MACHINE	01/30/20		EA0AMPHI	4,342.55
18462	BACKPACK ELECTROSTAT	10/14/20	BCKSTG	EA0AMPHI	1,524.39
18463	BACKPACK ELECTROSTAT	10/14/20	BCKSTG	EA0AMPHI	1,524.39
18464	BACKPACK ELECTROSTAT	10/14/20	BCKSTG	EA0AMPHI	1,524.39
18465	BACKPACK ELECTROSTAT	10/14/20	BCKSTG	EA0AMPHI	1,524.39



18624	IR FEVER DETECTON SY	11/17/20	STORAGE	EA0AMPHI	5,450.00
18625	IR FEVER DETECTION S	11/17/20	STORAGE	EA0AMPHI	5,450.00
18626	IR FEVER DETECTION S	11/17/20	STORAGE	EA0AMPHI	5,450.00
18627	IR FEVER DETECTION S	11/17/20	STORAGE	EA0AMPHI	5,450.00
18628	IR FEVER DETECTION S	11/17/20	STORAGE	EA0AMPHI	5,450.00
19221	CV 2197 21 FORD F-15	10/15/21	CV 2197	EA0AMPHI	32,036.00
20010011	BOX OFFICE REMODEL	04/12/01		EA0AMPHI	67,254.68
20220301	COMMERCIAL WATER HEATER	04/28/22		EA0AMPHI	6,445.39
20220302	COMMERCIAL WATER HEATER	04/28/22		EA0AMPHI	6,445.39
20985	NETWORK SWITCH	02/19/19	WC0006	EA0AMPHI	1,300.00
20986	NETWORK SWITCH	02/19/19	WC0007	EA0AMPHI	1,300.00
21001	SERVER	03/13/19		EA0AMPHI	7,563.00
21009	NETWORK SWITCH	03/25/19	WC0005	EA0AMPHI	1,595.00
21199	NETWORK SWITCH	09/23/20	WC9999	EA0AMPHI	1,795.00
21229	65" VIEWSONIC VIEWBO	12/23/20	AMP TRLR	EA0AMPHI	1,720.92
21230	SLOT-IN PC	12/23/20	AMP TRLR	EA0AMPHI	1,657.95
21281	98" VIEWSONIC VIEWBO	12/23/20	AMP	EA0AMPHI	9,865.74
21282	SLOT-IN PC	12/23/20	AMP	EA0AMPHI	1,657.95
12532	MAC MINI	06/30/07		NE00PVCH	5,063.33
12621	LG 42" LCD HDTV	09/28/07		NE00PVCH	1,599.99
13823	AED	09/10/10	FRT HALL	NE00PVCH	1,369.00
13824	AED	09/10/10	TCKT BTH	NE00PVCH	1,369.00
13982	CV 1775 PLATFORM LIFT	03/02/11	BACK STAGE	NE00PVCH	6,863.00
16608	MA ON PC COMMAND WIN	12/06/16		NE00PVCH	5,048.50
16609	MA ON PC FADER WING	12/06/16		NE00PVCH	3,772.00
16610	TOUCH SMART PC	12/06/16		NE00PVCH	1,058.00
18436	PORTABLE EVENT METAL	09/16/20	PV CNSRT	NE00PVCH	3,545.00
18437	PORTABLE EVENT METAL	09/16/20	PV CNSRT	NE00PVCH	3,545.00
18466	BACKPACK ELECTROSTAT	10/14/20	BCKSTG	NE00PVCH	1,524.39
18629	IR FEVER DETECTION S	11/17/20	STORAGE	NE00PVCH	5,450.00
20150098	PV CONCERT HALL HVAC	08/17/15		NE00PVCH	31,386.00
20180125	PVCH DECK OUTDOOR SE	01/24/18		NE00PVCH	51,847.44
20200101	PONTE VEDRA CONCERT LIGHTING	01/14/20		NE00PVCH	38,783.00
20453	2801 VOICE BUNDLE	02/10/11	BACK STAGE	NE00PVCH	1,455.00
21287	86" VIEWSONIC VIEWBO	12/23/20		NE00PVCH	3,284.30
21288	SLOT-IN PC	12/23/20		NE00PVCH	1,657.95
19710	WIFI Router	10/26/22	Box Office server rack	EA0AMPHI	3,758.20
19833	Leaf Vacuum	03/29/23		EA0AMPHI	1,368.07

OPERATIONS AND MANAGEMENT AGREEMENT  
 Operation & Management Agreement No:

EXHIBIT B  
 Deferred Maintenance Schedule

<b>Cultural Events Deferred Maintenance Schedule</b>							
<b>Amphitheatre</b>							
Description	Year Required	Estimated Cost	FY 2024 Percentage	FY 2024 Amount	FY 2025 Percentage	FY 2025 Amount	FY 2026 +
Site concrete/hard surface repairs	2023	\$ 18,510	50%	\$ 9,255	50%	\$ 9,255	\$ -
Replace awning for loading dock	2024	\$ 18,455	100%	\$ 18,455	0%	\$ -	\$ -
New fabric structure and repairs -300 section	2024	\$ 5,687,246	0.4430	\$ 2,519,354	56%	\$ 3,167,892	\$ -
Ice Machine No. 1 replacement	2024	\$ 5,771	100%	\$ 5,771	0%	\$ -	\$ -
Leak prevention rear of stage	2024	\$ 44,810	100%	\$ 44,810	0%	\$ -	\$ -
Replace trench drain system	2024	\$ 64,470	0%	\$ -	100%	\$ 64,470	\$ -
Landscaping for arboretum trail	2024	\$ 7,500	100%	\$ 7,500	0%	\$ -	\$ -
Copper water line repipe stage building	2024	\$ 157,812	100%	\$ 157,812	0%	\$ -	\$ -
Amp choice pergola roof replacement	2024	\$ 62,938	100%	\$ 62,938	0%	\$ -	\$ -
Replace wooden trellis @ ramps into plaza	2024	\$ 220,000	0%	\$ -	100%	\$ 220,000	\$ -
Replace siding south wall at loading dock	2024	\$ 7,950	100%	\$ 7,950	0%	\$ -	\$ -
Replace (3) overhead doors at loading dock	2024	\$ 49,076	50%	\$ 24,538	50%	\$ 24,538	\$ -
Amp repave front parking lot	2024	\$ 362,539	100%	\$ 362,539	0%	\$ -	\$ -
Ice Machine No. 2 replacement	2025	\$ 5,771	0%	\$ -	100%	\$ 5,771	\$ -
HVAC Replacement - electric rm - 1.5T	2026	\$ 3,750		\$ -	100%		\$ 3,750
Replacement of fabric on stage awnings	2026	\$ 21,647		\$ -	100%		\$ 21,647
Repave N access road and rear parking	2026	\$ 228,008		\$ -	100%		\$ 228,008
Replacement of fabric on tent	2027	\$ 1,004,884		\$ -	100%		\$ 1,004,884
HVAC Replacement system 6 - 3T	2027	\$ 7,500		\$ -	100%		\$ 7,500
Replace fire suppression system	2028	\$ 130,022		\$ -	100%		\$ 130,022
Paint tent structure	2028	\$ 123,956		\$ -	100%		\$ 123,956
Stage structure sandblast and painting	2031	\$ 213,175		\$ -	100%		\$ 213,175
Recoating roof over stage and dressing building	2031	\$ 66,263		\$ -	100%		\$ 66,263
HVAC Replacement system 5 - 2.5T	2033	\$ 5,000		\$ -	100%		\$ 5,000
HVAC Replacement system 1 - 2.5T	2035	\$ -		\$ -	100%		\$ -
HVAC Replacement system 2 - 2.5T	2035	\$ -		\$ -	100%		\$ -
HVAC Replacement system 3 - 2.5T	2035	\$ -		\$ -	100%		\$ -
HVAC Replacement system 4 - 5T	2035	\$ -		\$ -	100%		\$ -
HVAC Replacement - kitchen - 7.5T	2035	\$ -		\$ -	100%		\$ -
HVAC Replacement - production rm - 2.5T	2035	\$ -		\$ -	100%		\$ -
		<b>\$8,517,053</b>		<b>3,220,923</b>		<b>3,491,926</b>	<b>1,804,204</b>
<b>Ponte Vedra Concert Hall</b>							
Description	Year Required	Estimated Cost	FY 2024 Percentage	FY 2024 Amount	FY 2025 Percentage	FY 2025 Amount	FY 2026 +
Replace Fire Suppression System	2024/25	\$ 259,281	75%	\$ 194,460	25%	\$ 64,820	\$ -
Wood Fence South Side	2024/25	\$ 22,677		\$ -	100%	\$ 22,677	\$ -
Replace Windows	2024/25	\$ 60,730	100%	\$ 60,730	0%	\$ -	\$ -
Paint Exterior and misc. repair	2024/25	\$ 60,964	100%	\$ 60,964	0%	\$ -	\$ -
HVAC Replacement (systems 64T)	2024/25	\$ 507,271	100%	\$ 507,271	0%	\$ -	\$ -
Parking lot demo and replacement	2024/25	\$ 715,884	30%	\$ 214,765	70%	\$ 501,119	\$ -
		<b>1,626,807</b>		<b>1,038,190</b>		<b>588,616</b>	<b>0</b>
<b>Combined Amphitheatre and Ponte Vedra Concert Hall FY 2024</b>				<b>\$ 4,259,113</b>			
<b>Combined Amphitheatre and Ponte Vedra Concert Hall FY 2025</b>						<b>\$ 4,080,542</b>	
<b>Combined Amphitheatre and Ponte Vedra Concert Hall FY 2026 +</b>							<b>\$ 1,804,204</b>

OPERATIONS AND MANAGEMENT AGREEMENT  
 Operation & Management Agreement No:

EXHIBIT C  
 Annual Maintenance Schedule

Asset Type	Year Built	BMA Target	Description	Square Feet	Estimated CRV	BMAR
Accessory Elements at Amp	2022	0.020	Aluminum Bleachers	N/A	362,517.00	7,250.34
Building	1990	0.025	Ticket Office/Front Office	1,386	372,665.75	9,316.64
Building	2005	0.040	Theater/Stage/Dressing	15,893	5,883,512.06	235,340.48
Building	2007	0.040	Theater/Concession	8,205	2,142,202.62	85,688.10
Building - Trailer	?	0.025	Office	170	16,150.00	403.75
Building - Trailer	?	0.025	Office	170	16,150.00	403.75
Building - Trailer	2018	0.025	Office	1,400	133,000.00	3,325.00
Metal Building	2016	0.015	Metal Storage Building	674	64,030.00	960.45
Metal Shed	2013	0.015	Storage Shed	288	12,096.00	181.44
Metal Shed	?	0.015	Storage Shed	288	12,096.00	181.44
Wood Pergola and Deck	2014	0.050	Wood Frame w/Roof	2,000	257,188.23	12,859.41
Fabric Structure Metal Covered Stage	2006	0.040	Steel/Fabric Structure	16,727	3,164,748.40	126,589.94
Front Porch/Deck	2017	0.015	Steel Structure w/Deck	1,285	199,175.00	2,987.63
Paver Vendor Areas	2017	0.050	Wood Deck	4,238	508,560.00	25,428.00
Accessory Elements at Amp	2019	0.020	Accessory Elements Railings, lighting, walks, etc.	3,250	88,652.00	1,773.04
Building	2006	0.020		N/A	1,100,000.00	22,000.00
	1980	0.025	Ponte Vedra Concert Hall	25,239	<u>8,851,600.65</u>	<u>221,290.02</u>
<b>Total Estimated CRV</b>					<b>23,184,343.72</b>	
<b>Annual BMAR &amp; Capital Replacement Reserve</b>						<b>755,979</b>

**BMAR Targets**

High Need Asset	0.040
Standard Bldg.	0.025
Storage Bldg.	0.015
Wood Decks	0.050
Accessory Elements	0.020
Concert Hall	0.025

OPERATIONS AND MANAGEMENT AGREEMENT  
Operation & Management Agreement No:

EXHIBIT D  
Transition Services Document

IT Transition Services:

1. All desktops, laptops, smartboards and network switches have been setup with a Windows Terminal Servicer for remote access by SJC Cultural Events Staff in order to continue day-to-day access to County resources, while the devices are removed from the County's network in preparation for SJCCE's vendor to prepare devices for new systems starting 10/1/23.
2. All unstructured files (i.e. MS Word, Excel) will be copied over to SJCCE's new server(s) managed by SJCCE's vendor. SJC MIS will copy identified shared folders and SJC Cultural Events Staff will copy their My Documents, subject to the provisions of this Contract.
3. All emails through 09/30/23 will be copied over to SJCCE's new mail server, which shall be managed by SJCCE's vendor, subject to the provisions of this Contract. With County Administrator approval, SJC MIS Staff will provide forwarded emails, as well as a "bounce" notification from 10/1/23 through 12/31/23, to mitigate any gaps in communications due to the transition of correspondence.
4. Access Control is being re-worked to move relevant devices to a separate network that will be managed by the County, while general operations related to Access Control shall be managed by SJCCE staff. SJCCE will be provided limited access to the County's Access Control System with ability to manage door access for the Amphitheatre. SJCCE will be given limited remote access to the County's HVAC System at the Ponte Vedra Concert Hall in order to appropriately manage the HVAC systems, without providing unsecured access to any other County facilities or systems.
5. Mobile devices, which shall be transferred to SJCCE, shall be removed from the County's Mobile Device Management System, for management by SJCCE as of 10/1/23. The cellular account(s) related to mobile phones shall be taken over by SJCCE, or new numbers will be established with SJCCE's account setup with their selected cellular provider.
6. Landline phones have been identified with intent of issuing a Letter of Authority, upon BOCC approval, to allow SJCCE's vendor to port identified landlines to SJCCE's new phone provider.
7. The 500MB internet circuit at the Amphitheatre will be transferred over to a Comcast account managed by SJCCE for takeover after 9/30/23.

HR Transition Services:

1. All transitioning SJC Cultural Events Staff will have all access to the County's HR Department to assist with any questions and/or concerns related to terminating employment with the County.
2. SJCCE has extended offers to all SJC Cultural Events Staff who meet requirements for consideration, and have begun processes for the transition of employment to take effect on 10/1/23.

**OPERATIONS AND MANAGEMENT AGREEMENT**

Operation & Management Agreement No:

**EXHIBIT E**  
Existing Contracts List

<b>Contract Number</b>	<b>Vendor</b>	<b>Contract Title</b>	<b>Effective Date</b>	<b>Expiration Date</b>
20-MCC-PRO-11332	Professional Concessions, Inc	19-42; Food & Beverage Services for SJC Cultural Events	01/01/2020	01/01/2030
14-EQ-AUT-05853	Auto Chlor System of Jacksonville	Lease for Dishwasher and Chemicals	11/01/2014	10/17/2023
17-MCC-KAT-08531	Kathryn H. Provow, LLC	17-33; SJC Amphitheatre Farmers Market Management	08/01/2017	07/31/2024
18-LEA-MOD-09115	Williams Scotsman, Inc	Misc 18-55; Temporary Office Trailer Lease at Amphitheatre	04/06/2018	04/07/2024
18-MCC-GID-09943	Giddens Security Corporation	18-06; Event Security Services	11/26/2018	11/25/2023
19-SA-CAR-10124	Carbonhouse, LLC	19-09; SJC Cultural Events Division Website Redesign	05/10/2019	05/10/2023
21-MCC-STJ-13104	St. Johns County Council on Aging, Inc dba Coastal Transportation	21-42; St. Augustine Amphitheatre Shuttle Services	03/22/2021	03/21/2024
23-PSA-FIS-17903	Fisher Koppenhafer, P.A.	23-51; Architectural Services for Ponte Vedra Concert Hall	05/17/2023	03/15/2024
14-MAS-TIC-06199	Ticketmaster	14-40; Computerized Ticket Sales and Promotions System	06/22/2014	12/31/2024
<b>**All Performer Agreements executed by the County prior to 10/1/23, for performances scheduled after 10/1/23.</b>				

OPERATIONS AND MANAGEMENT AGREEMENT

Operation & Management Agreement No:

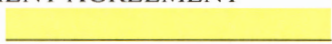


EXHIBIT F  
State Lease & Extension