

10014

**PROPRIETARY AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
SIMPLEXGRINNELL LP
FOR
INSTALLATION OF NEW CODE-COMPLIANT FIRE ALARM SYSTEMS**

THIS PROPRIETARY AGREEMENT (hereinafter the “Agreement”) is made and entered into in duplicate this 5th day of May, 2015, (hereinafter the “Effective Date”) by and between the CITY OF JACKSONVILLE, a municipal corporation in Duval County, Florida (hereinafter the “City”), and SIMPLEXGRINNELL LP, a foreign limited partnership registered to do business in the State of Florida with an office at 4700 Exchange Court, Suite 300, Boca Raton, Florida 33431 (hereinafter the “Contractor”), for installation of new Code-compliant fire alarm systems at Pretrial Detention Facility (hereinafter “PTDF”, Police Memorial Building (hereinafter “PMB”), and Community Transition Center (hereinafter “CTC”).

RECITALS:

WHEREAS, on July 2, 2013, City and AON Fire Protection Engineering Corporation (hereinafter “AON”) entered into a design contract to provide engineering design for three fire alarm protection systems; and

WHEREAS, during the fiscal year 2013-2014 budget preparation, capital dollars in the amount of \$475,000 were appropriated for fire alarm systems at PTDF, PMB, and CTC (hereinafter the “Project”); and

WHEREAS, bids (CF-0103-14) were received for the design prepared by AON but were rejected for being over budget; and

WHEREAS, because replacement of the fire alarm systems at PTDF, PMB, and CTC are life safety items, proprietary through Contractor, and select floors of the jail are on a fire watch, efforts were renewed to find an additional \$700,000.00 for the Project; and

WHEREAS, Contractor was given the opportunity to provide a budgetary quote for the Project; and

WHEREAS, Contractor's quote provides and guarantees that PTDF, PMB, and CTC will get new ADA compliant notification appliances to meet current code requirements and adheres closely to the original bid documents while utilizing existing cable, conduit, electronics, back boxes and other equipment whenever possible to minimize the cost of the Project; and;

WHEREAS, the entire value engineering process coordinated with AON resulted in savings of \$196,500.79 to City; and

WHEREAS, through utilization of Contractor, the installation of the new notification appliances will be fast-tracked and the new systems will be operational upon installation;

WHEREAS, it is in the best interests of the parties to enter into this Proprietary Agreement for the Project; now therefore

IN CONSIDERATION of the premises and of the mutual covenants and agreements hereinafter contained, City hereby engages Contractor for services for the Project in accordance with the following:

SECTION O

INCORPORATION OF RECITALS

The above-stated recitals are true and correct and are incorporated herein and made a part hereof by this reference.

**SECTION 1
BASIC SERVICES OF THE CONSULTANT**

1.01 STATEMENT OF CONSULTANT SERVICES

Contractor shall furnish all services, documents, drawings, and other matters called for in this Agreement, as well as those contained in the "Scope of Services", attached hereto as **Exhibit A** and made a part hereof by this reference. If any services, functions, or responsibilities not specifically described in this Agreement and/or the Scope of Services are necessary for the proper performance and provision of the Services, they shall be deemed to be implied by and included within the Scope of Services to the same extent and in the same manner as if specifically described in this Agreement. Contractor shall be responsible for providing the equipment, supplies, personnel (including management, employees, and training), and other resources as necessary to provide the Services. Contractor accepts the special relationship established between itself and City by this Agreement. Contractor covenants with City that it is an expert in the design of the Project and will cooperate with Program Managers, Construction Managers, City representatives, and others in fostering the interests of City. Contractor shall employ sound business administration and superintendence to complete the Project in a manner consistent with the best interests of City.

1.02 PERIOD OF SERVICE

This Agreement shall be effective as of the Effective Date, and shall continue and remain in full force and effect until the Project is completed and accepted as completed by City.

1.03 GENERAL REQUIREMENTS

Contractor shall serve as City's professional representative on the Project and shall consult with City during the performance of the Services. Contractor warrants that it now has or

will secure at its own expense all personnel and facilities required to perform all services under this Agreement. Contractor shall not have any direct or indirect contractual relationship with any officer or employee of City which will conflict with its ability to perform hereunder. All personnel assigned to the work shall be fully qualified and all facilities employed shall be adequate for the work required. Contractor shall prosecute the work under the full-time direction of one or more of its senior officers or a responsible representative who shall be acceptable to City. Contractor shall designate in writing to City such representative, who shall be authorized to act on behalf of Contractor on any matter covered by this Agreement.

1.03.01. All services performed by Contractor shall be executed in cooperation and coordination with City through its Project Manager, and in the performance of such services Contractor shall:

1.03.01.01. Maintain close liaison and cooperation with City during performance of the work hereunder to obtain agreement and coordination of the various phases of work contained herein.

1.03.01.02. Attend all meetings and conferences as arranged and required by City during the progress of the work hereunder in order to establish Project criteria, to review City and State standards, to secure agreement upon the comprehensive and detailed basis of Contractor's services, and to discuss any other matters relating to the work.

1.03.01.03. Provide City with written memoranda to confirm and record the understandings and agreements resulting from meetings and conferences related to Project.

1.03.01.04. Provide City with schedules, including starting dates and contemplated completion dates, for the work hereunder and periodic progress reports, such schedules and progress reports being in format and detail as City may require.

1.03.01.05. Provide progress updates as required by the Project Manager.

1.03.02. In addition to Project delivery requirements otherwise specified, Contractor shall deliver all final drawings to City in electronic form using either a standard .dxf or .dwg format and in layers as prescribed by City's Project Manager. Further, all survey data and other horizontal control and location shall be referenced to State Plane Coordinates, NAD 83, and all vertical control and elevations shall be referenced to National Geodetic Vertical Datum (NGVD).

SECTION 2 CITY'S RESPONSIBILITIES

CITY shall:

2.01. Advise as to its requirements for the work.

2.02. Assist Contractor by placing at its disposal all available information pertinent to the site of the work which City may have.

2.03. Make reasonable efforts to obtain access on both public and private land as necessary for Contractor to perform its work under this Agreement.

2.04. Examine all studies, reports, sketches, estimates, specifications, drawings, proposals, and other documents presented by Contractor and render written decisions pertaining thereto within a reasonable time so as not to delay Contractor's work. City's review of any documents prepared by Contractor shall be solely for the purpose of determining whether such documents are generally consistent with the Project. No review of such documents shall relieve Contractor of its

ultimate responsibility for the accuracy, adequacy, fitness, suitability, and coordination of its work product.

2.05. Provide such legal, accounting, and insurance counseling services as may be required for the work and such auditing services as City may require for its own benefit.

2.06. Designate in writing a person to act as City's Project Manager with respect to the work to be performed under this Agreement who shall have complete authority to transmit instructions, receive information, and interpret and define City's policies and decisions with respect to the work covered by this Agreement.

2.08. Assist Contractor in securing approval of all governmental authorities having jurisdiction over Project and such approvals and consents from such other individuals or bodies as may be necessary for completion of the work.

2.09. Furnish or direct Contractor to provide at City's expense any necessary additional services in connection with the work that may be required by City, provided that any such direction shall be given by City to Contractor in writing and shall provide a maximum indebtedness for such services.

SECTION 3 PAYMENT FOR SERVICES OF CONTRACTOR

3.01. City shall pay to Contractor in increments proportional to satisfactory completion and as actually, timely, and faithfully rendered:

3.01.01. For Services, as specified in Section 1 of this Agreement and as described in **Exhibit A**, the fees detailed in the Contract Fee Summary, attached hereto as **Exhibit B** and incorporated herein by this reference. Payment of the fees is contingent upon Contractor's final completion of the work authorized by Notices to Proceed in the form of individual purchase

orders with not-to-exceed amounts applicable thereto as specified in this Agreement and in the exhibits attached hereto which constitute the Scope of Services. Such completion of the work must be acceptable to and accepted by City. Such acceptability to, and acceptance by, City may not be unreasonably denied.

3.02. Payment shall be made by individual purchase order with a not-to-exceed cost applicable thereto and specifically stated thereon.

3.03. Contractor shall submit invoices for payment or reimbursement under this subsection on an "as incurred" basis. Such invoices shall be combined with Contractor's regular invoices as set forth in Subsection 3.04 hereof. The cost of services provided by Contractor shall be paid at the rates (including direct labor, indirect costs, and profit) shown in the "Contract Fee Summary Format". The cost of services provided to Contractor by others shall be reimbursed at the invoiced amount without markup by Contractor. Travel expenses, if provided for as a reimbursable expense in **Exhibit B**, shall be reimbursed only to the extent provided by Chapter 106, Part 7, *Ordinance Code*. Travel expenses not specifically covered by said chapter shall be reimbursed only to the extent provided by the uniform policies and practices of CITY.

3.04 Contractor shall submit written invoices not more often than monthly in such form and containing such documentation as reasonably required by City's Project Manager in order to establish charges and to enable compensation therefor by City as soon as practicable upon receipt, review, and approval of each such invoice. Each such invoice shall include the amount of payment requested, the amount previously paid, the total contract value, the percent completed since the last invoice, the total percent completed to date, and any other such information as may be reasonable and necessary to secure the written approval of the invoice by City's Project

Manager. Each invoice shall contain a statement that it is made subject to the provisions and penalty of Section 837.06, Florida Statutes.

3.05. Each and every payment by City to Contractor shall be expressly subject to the submittal of written invoices as provided in Sections 3.03 and 3.04.

3.06. The maximum indebtedness of City for all Services to be performed pursuant to this Agreement shall not exceed the sum of ONE MILLION ONE HUNDRED THIRTY-NINE THOUSAND FOUR HUNDRED NINETY-NINE AND 21/100 DOLLARS (\$1,139,499.21); provided however, this Agreement shall require no encumbrance of funds at this time. Such encumbrance of funds shall be made by the aforementioned individual purchase orders. All funding availability and other fiscal checking will be made at the time of issuing said individual purchase orders.

**SECTION 4
RESERVED**

**SECTION 5
GENERAL CONDITIONS**

5.01 TERMINATION AND SUSPENSION

5.01.01. This Agreement shall continue and remain in full force and effect as to all of its terms, conditions, and provisions as set forth herein until and unless City shall give written notice to Contractor of its desire to terminate this Agreement, with or without cause, on a specified time and date thereafter. Such written notice to terminate this Agreement shall be given no less than thirty (30) days prior to the date this Agreement shall be so terminated, with twenty-four hours' notice in the event that funds become unavailable to City for any reason whatsoever. In the event of any such termination, Contractor shall be paid by City for all services actually, timely, and faithfully rendered up to receipt of the notice of termination, and

thereafter until the date of termination, Contractor shall be paid only for such services as are specifically authorized in writing by the City.

5.01.02. This Agreement or any portion hereof may be suspended from time to time for various periods of time in the event that the Project is delayed, postponed, or otherwise adversely affected permanently or temporarily by action of City. In the event of any such suspension, Contractor shall be paid for all services actually, timely, and faithfully rendered up to the date of suspension, and for all services so rendered after cessation of the suspension and resumption of the services.

5.01.03. If City fails to issue a written Notice to Proceed in the form of a purchase order to Contractor within six (6) calendar months from the date first above written or if City suspends work under this Agreement for a period of at least six (6) calendar months once work has commenced, Contractor shall have the right at its option to terminate this Agreement by giving written notice thereof to City. The giving of such written notice to terminate by Contractor shall eliminate all further rights and obligations of the parties hereunder other than Contractor's obligations under subsections 5.4, 5.5, 5.7, 5.8, 5.9 and 5.12.

5.02 OWNERSHIP OF DOCUMENTS

All documents connected with the Project shall become the property of City.

5.03 RESERVED

5.04 INDEMNIFICATION

5.04.01. Contractor shall indemnify and hold harmless City, its officers, employees, successors, and assigns from, and will reimburse City, its officers, employees, successors and assigns for, liabilities, damages, losses, and costs, including but not limited to reasonable attorneys' fees, to the extent caused by the negligence, recklessness, or intentionally wrongful

conduct of Contractor and other persons employed or utilized by contractor in the performance of this Agreement.

5.04.02. All indemnification provisions contained in this Section 5.04 are separate and apart from, and are in no way limited by, any insurance provided pursuant to this Agreement or otherwise. This section 5.04 relating to Indemnification shall survive the term of this Agreement and any holdover and/or Agreement extensions thereto, whether such term expires naturally by the passage of time or is terminated earlier pursuant to the provisions of this Agreement.

5.05 INSURANCE

5.05.01 Without limiting its liability under this Agreement, Contractor shall procure and maintain during the life of this Agreement insurance of the types and in amounts no less than those stated below:

<u>Schedule</u>	<u>Limits</u>
Workers' Compensation	Florida Statutory Coverage
Employer's Liability (including appropriate federal acts)	\$100,000 Each Accident \$500,000 Disease Policy Limit \$100,000 Each Employee/Disease

Contractor's insurance shall cover Contractor for those sources of liability which would be covered by the latest edition of the standard Workers' Compensation policy as filed for use in the State of Florida by the National Council on Compensation Insurance (NCCI) without any restrictive endorsements other than the Florida Employers Liability Coverage Endorsement (NCCI Form WC 09 03), those which are required by the State of Florida, or any restrictive NCCI endorsements which under an NCCI filing must be attached to the policy (i.e., mandatory endorsements). In addition to coverage for the Florida Workers' Compensation Act, coverage is

to be included for the Federal Employers' Liability Act and any other applicable federal or state law where appropriate.

Commercial General Liability: ISO Form CG0001, or equivalent, as filed for use in the State of Florida without any restrictive endorsements other than those which are required by the State of Florida, or those which, under an ISO Filing, must be attached to the policy (i.e., mandatory endorsement).

Commercial General Liability	\$1,000,000 Per Occurrence
Premises-Operations	\$2,000,000 Aggregate
Products-Completed Operation	
Contractual Liability	
Independent Contractors	
Automobile Liability	\$1,000,000 Combined Single Limit
All autos-owned, hired or used	

City shall be endorsed as an additional insured under all of the above Commercial General Liability coverage and Automobile Liability. Such insurance shall be endorsed to provide for a waiver of underwriter's rights of subrogation in favor of City.

Professional Liability (and Employee Benefits Plan Liability)	\$1,000,000 per Claim & Aggregate
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Professional Liability coverage will be provided on an Occurrence Form or a Claims Made Form with a retroactive date to at least the first date of this Agreement and with a three year reporting option beyond the annual expiration date of the policy. The coverage shall include additional coverage for Network and Information Security Offenses and Electronic Data (products) E&O.

Valuable Papers	\$100,000 per Occurrence
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City shall be named as an additional insured under Valuable Papers coverage.

5.05.02. Depending upon the nature of any aspect of the Project and its accompanying exposures and liabilities, City may, at its sole option, require additional insurance coverages, in amounts responsive to those liabilities, which may or may not require that City also be named as an additional insured.

5.05.03. Said insurance shall be written by an insurer holding a current certificate of authority pursuant to Chapter 624, Florida Statutes. Such insurance shall be written by an insurer with an A.M. Best Rating of A- VII or better. Prior to commencing any work on the Project, Certificates of Insurance approved by City's Division of Risk Management demonstrating the maintenance of said insurance shall be furnished to City. Contractor shall provide an endorsement issued by the insurer to provide City thirty (30) days' prior written notice of any change in the above insurance coverage limits or cancellation, including expiration or non-renewal.

5.05.04. Anything to the contrary notwithstanding, the liabilities of Contractor under this Agreement shall survive and not be terminated, reduced, or otherwise limited by any expiration or termination of insurance coverages. Neither approval of nor failure to disapprove insurance furnished by Contractor shall relieve Contractor or its subcontractors from the responsibility to provide insurance as required under this Agreement.

5.05.05. Notwithstanding anything contained herein, the required entities shall be added as additional insured but only to the extent of Contractor's negligence and indemnification obligations.

5.06 SUCCESSORS AND ASSIGNS

City and Contractor each bind the other and their respective successors and assigns in all respects to all of the terms, conditions, covenants, and provisions of this Agreement, and, with

the exception of assignment to a parent company, affiliate, or subsidiary company, any assignment or transfer by Contractor of its interests in this Agreement without the written consent of City shall be void. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of City, nor shall it be construed as giving any right or benefit hereunder to anyone other than City or Contractor.

5.07 NON-DISCRIMINATION PROVISIONS

5.07.01. Contractor warrants that it has adopted and shall maintain a policy of non-discrimination against an employee or applicant for employment on account of race, religion, sex, color, national origin, age, or handicap and that such policy applies to all areas of employee relations throughout the term of this Agreement.

5.07.02. On written request, Contractor shall permit access to its records of employment, employment advertisements, application forms, and other pertinent data and records by City's Executive Director of the Community Relations Commission for the purpose of investigation to ascertain compliance with the non-discrimination provisions of this Agreement. Contractor shall not be required to produce for inspection any records covering periods of time more than one (1) year prior to the date of this Agreement.

5.07.03. Contractor agrees that if any of the obligations of this Agreement are to be performed by a subcontractor, then the provisions of the above two paragraphs shall be incorporated into and become a part of the subcontract.

5.08. PROMPT PAYMENT TO SUBCONSULTANTS, ETC.

5.08.01 Generally. When Contractor receives payment from City for labor, services, or materials furnished by subconsultants, subcontractors, and suppliers hired by Contractor, Contractor shall remit payment due (less proper retainage) to those subconsultants,

subcontractors, and suppliers within fifteen (15) calendar days after Contractor's receipt of payment from City. Nothing herein shall prohibit Contractor from disputing, pursuant to the terms hereof, all or any portion of a payment alleged to be due to its subconsultants, subcontractors, and suppliers. In the event of such a dispute, Contractor may withhold the disputed portion of any such payment only after Contractor has provided notice to City and to the subconsultant, subcontractor, or supplier whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and, (iv) be delivered to City and the subconsultant, subcontractor, or supplier within ten (10) calendar days after Contractor's receipt of payment from City. Contractor shall pay all undisputed amounts due within the time limits imposed by this section.

5.08.02. Jacksonville Small Emerging Business ("JSEB") and Minority Business Enterprise ("MBE") Participation. Notwithstanding Chapter 126, Part 6, *Ordinance Code*, Contractor shall pay all contracts awarded with certified JSEB's and certified MBE's, as defined therein, their pro-rata share of their earned portion of any progress payments made by City under this Agreement within seven (7) business days after Contractor's receipt of payment from City (less proper retainage). The pro-rata share shall be based on all work completed, materials and equipment furnished, or services performed by the certified JSEB or certified MBE at the time of payment. As a condition precedent to progress and final payments to Contractor, Contractor shall provide to City with its requisition for payment, documentation that sufficiently demonstrates that Contractor has made proper payments to its certified JSEB's or certified MBE's from all prior payments that CONTRACTOR has received from City. Contractor shall not unreasonably withhold payments to certified JSEB's or certified MBE's if such payments have been made to Contractor. If Contractor withholds payment to its certified JSEB's or

certified MBE's, which payment has been made by City to Contractor, Contractor shall return said payment to City. Contractor shall provide notice to City and to the certified JSEB or certified MBE whose payment is in dispute, which notice shall: (i) be in writing; (ii) state the amount in dispute; (iii) specifically describe the actions required to cure the dispute; and, (iv) be delivered to City and to the certified JSEB or certified MBE within five (5) calendar days after Contractor's receipt of payment from City. Contractor shall pay all undisputed amounts due within the time limits imposed by this section. The failure to pay undisputed amounts to the certified JSEB or certified MBE within seven (7) business days after Contractor receives payment from City shall be a breach of contract, compensable by 1% of the outstanding invoice's being withheld by City, not as a penalty but as liquidated damages for additional and extra contract administration by City. Continued failure to adhere to this section may be cause for termination of the Agreement.

5.08.03. The Prompt Payment requirements hereunder shall in no way create any contractual relationship or obligation between City and any subconsultant, subcontractor, JSEB, MBE, or any third-party or create any City liability for Contractor's failure to make timely payments hereunder. However, Contractor's failure to comply with these Prompt Payment requirements shall constitute a material breach of Contractor's contractual obligations to City. As a result of said breach, City, without waiving any other available remedy it may have against Contractor, may (i) issue joint checks and (ii) charge Contractor a 0.2% daily late payment interest charge or the other charges specified in Chapter 126, *Ordinance Code*, for JSEB's and MBE's, and Chapter 218, Florida Statutes, for non-JSEB's or non-MBE's, whichever is greater.

5.09 RETENTION OF RECORDS

Contractor and its subcontractors shall maintain all books, documents, papers, accounting records, and other evidence pertaining to costs incurred in the work and shall make such materials available for inspection, copying, and/or audit by City at all reasonable times during the period of this Agreement and for three (3) years from the date of final payment under this Agreement.

5.10 COMPLIANCE WITH STATE AND OTHER LAWS

In the provision of the Services, Contractor must comply with any and all applicable federal, state, and local laws, rules, regulations, and ordinances as the same exist and may be amended from time to time. Such laws, rules, regulations, and ordinances shall include, but are not limited to, Chapter 119, Florida Statutes, (the Florida Public Records Law) and Section 286.011, Florida Statutes, (the Florida Sunshine Law). Such laws, rules, regulations, and ordinances must also include, but are not limited to, obtaining and maintaining all licenses and certifications that are required to perform the Services contemplated in this Agreement in the City of Jacksonville, State of Florida. If any of the obligations of this Agreement are to be performed by a subcontractor, the provisions of this section shall be incorporated into and become a part of the subcontract.

5.11 SETTLEMENT OF CLAIMS

In any case where Contractor deems that extra compensation is due it for services or materials not clearly covered in this Agreement or not ordered in writing by City as an additional service, Contractor shall notify City in writing before it begins the work on which it bases the claim. Contractor shall not commence such work without prior written authorization from City. If such authorization is not previously given or the claim is not separately and strictly accounted for, Contractor hereby agrees to waive the claim for such extra compensation. However, such

notice or accounting shall not in any way be construed as proving the validity of the claim. Any dispute not otherwise settled shall be resolved by Executive Order 98-01.

5.12 ACCURACY OF WORK

5.12.01. Contractor shall be responsible for the accuracy of its work, including work by any subcontractors, and shall promptly make necessary revisions or corrections resulting from errors and omissions on the part of Contractor or subcontractors without additional compensation. Acceptance of the work by City shall not relieve Contractor of the responsibility for subsequent corrections of any such errors and the clarification of any ambiguities.

5.12.02. At any time during the construction of the Project provided for by the Contract Documents or during any phase of work performed by others based on data furnished by Contractor under this Agreement, Contractor shall confer with City for the purposes of interpreting the information furnished and/or correcting any errors and/or omissions made by Contractor. Contractor shall prepare all drawings or data to correct its errors and/or omissions without added compensation even though final payment may have already been received therefor.

5.12.03. Contractor shall be and shall remain liable, in accordance with applicable law, for all damages to CITY caused by Contractor's breach of contract or its negligent performance of any of the services furnished under this Agreement. Contractor shall not be responsible for any time delays in the Project caused by circumstances beyond Contractor's control.

5.13 LIQUIDATED DAMAGES

City shall not assess liquidated damages against Contractor unless and until City gives written notification of intent and basis of determination of amounts and degree of responsibility of Contractor and all other subcontractors. Such written notification must be given within a reasonable period of time after the occurrence for which City seeks to assess liquidated damages,

not to exceed ten (10) days after the alleged event causing the damage. However, liquidated damages, taken in aggregate, shall not exceed ten percent (10%) of Contractor's contract price.

5.14 LIMITATION OF LIABILITY

Notwithstanding anything to the contrary contained in this Agreement, neither party shall be liable for indirect, incidental, special, or consequential damages. In no event shall Contractor be liable for any damage for performance in any amount exceeding 200% of the total compensation provided to Contractor under this Agreement.

5.15 HAZARDOUS MATERIALS

Contractor shall not be responsible for abatement and/or removal of hazardous or asbestos-containing materials. Should any hazardous materials be encountered at any time, Contractor shall immediately stop all work until such hazardous or unsafe condition is rectified and City so notifies Contractor in writing that work can be resumed safely based on a test conducted by a licensed testing organization. Timetables for delivery of Contractor products or services shall be adjusted appropriately for any associated delay.

5.16 RECIPROCAL WAIVER OF CLAIMS (SAFETY ACT)

Certain of Contractor's systems and services have received Certification and/or Designation as Qualified Anti-Terrorism Technologies ("QATT") under the Support Anti-Terrorism by Fostering Effective Technologies Act of 2002, 6 U.S.C. §§ 441-444 (the "SAFETY Act"). As required under 6 C.F.R. 25.5(e), to the maximum extent permitted by law, Contractor and City hereby agree to waive their respective rights to make any claims against the other for any losses, including business interruption losses, sustained by either party or their respective employees resulting from an activity resulting from an "Act of Terrorism" as defined in 6 C.F.R.

25.2 when QATT have been deployed in defense against, response to, or recovery from such Act of Terrorism.

5.17 PROHIBITION AGAINST CONTINGENT FEES

Contractor warrants that it has not employed or retained any company or person other than a bona fide employee working solely for Contractor to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm other than a bona fide employee working solely for Contractor any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of these provisions, City shall have the right to terminate this Agreement without liability and, at its discretion, to deduct from the contract price or otherwise recover the full amount of such fee, commission, percentage, gift, or consideration.

5.18 TRUTH IN NEGOTIATION CERTIFICATE

Contractor understands and agrees that execution of this Agreement by Contractor shall be deemed to be simultaneous execution of a truth-in-negotiation certificate under this provision to the same extent as if such certificate had been executed apart from this Agreement, such certificate being required by Section 287.055, Florida Statutes. Pursuant to such certificate, Contractor hereby states that the wage rates and other factual unit costs supporting the compensation hereunder are accurate, complete, and current at the time of contracting. Further, Contractor agrees that the compensation hereunder shall be adjusted to exclude any significant sums where City determines the contract price was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs, provided that any and all such adjustments shall be made within one (1) year following the completion date of this Agreement.

5.19 INDEPENDENT CONTRACTOR

In the performance of this Agreement, Contractor shall be acting in the capacity of an independent contractor and not as an agent, employee, partner, joint venturer, or associate of City. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures utilized in the full performance of this Agreement.

5.20 CONSTRUCTION

Both parties acknowledge that they have had meaningful input into the terms and conditions contained in this Agreement. Therefore, any doubtful or ambiguous provisions contained herein shall not be construed against the party who physically prepared this Agreement.

5.21 ORDER OF PRECEDENCE

In the event of any conflict between the provisions of this Agreement and those of the exhibits attached hereto or amendments, the priority shall be: 1) fully executed amendments, 2) the provisions of this Agreement, and 3) exhibits in decreasing order of precedence.

5.22 AMENDMENTS

This Agreement may be amended only by written instrument specifically referring to this Agreement and executed with the same formalities as this Agreement.

5.23 ETHICS PROVISION FOR PROFESSIONAL SERVICES

Contractor by affixing its signature to this Agreement represents that it has reviewed the provisions of the Jacksonville Ethics Code, contained in Chapter 602, *Ordinance Code*, and the provisions of the Jacksonville Purchasing Code, contained in Chapter 126, *Ordinance Code*.

5.24 COOPERATION WITH COUNSEL FOR THE CITY

Contractor acknowledges that City is represented by the Office of General Counsel. During the term of this Agreement, it may be necessary to attend meetings or participate in

telephone calls or discussions with counsel for City for issues related to the Project. Contractor may also have its counsel at such meetings and it is agreed by the parties that neither side will claim that a conflict exists or that counsel may not represent its client on the basis of any such meeting, duty, or conference.

5.25 SEVERABILITY

Should any provision of this Agreement be deemed to be unenforceable or not legal by a court of competent jurisdiction, the remaining provisions of the Agreement shall remain in full force and effect.

5.26 ENTIRE AGREEMENT

This Agreement represents the entire agreement by and between the parties with respect to the Project. No representation, understanding, statement, agreement, course of conduct, or course of action by the parties or by their representatives that is not in this Agreement shall be binding. This Agreement may be amended only by written instrument, signed by the authorized representatives of the parties.

5.27 COUNTERPARTS

This Agreement may be executed in several counterparts, each of which shall be deemed to be an original and all of such counterparts together shall constitute one and the same instrument.

5.28 GOVERNING LAW AND VENUE

This Agreement shall be governed and interpreted exclusively under the laws of the State of Florida. Venue for litigation under this Agreement shall be in courts of competent jurisdiction located in Jacksonville, Duval County, Florida.


5.29 NON WAIVER

Failure by either party to insist upon strict performance of any of the provisions hereof, either party's failure or delay in exercising any rights or remedies provided herein, the City's payment for the services or any part or combination thereof, or any purported oral modification or rescission of this Agreement by an employee or agent of either party shall not release either party from its obligations under this Agreement, shall not be deemed a waiver of any rights of either party to insist upon strict performance hereof or of either party's rights or remedies under this Agreement or by law, and shall not operate as a waiver of any of the provisions hereof.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement the day and year first above written.

ATTEST:

By *James R. McCain, Jr.*
James R. McCain, Jr.
Corporation Secretary



CITY OF JACKSONVILLE

By *Cleveland Ferguson III*
Alvin Brown, Mayor

Cleveland Ferguson III
Deputy Chief Administrative Officer
For: Mayor Alvin Brown
Under Authority of:
Executive Order No. 2015-01

WITNESS:

By *Pam McElroy*
Signature

Pam McElroy
Type/Print Name

Field Administrator
Title

SIMPLEXGRINNELL LP

By *[Signature]*
Signature

Farshid Pourgolafshan
Type / Print Name

District General Manager
Title

G:\Gov't Operations\JMCain\PW\Contracts\SimplexGrinnell.FireAlarm.proprietary.040615.doc


Encumbrance and funding information for internal City use:

Account Various subsequently issued purchase orders

Amount \$1,139,499.21

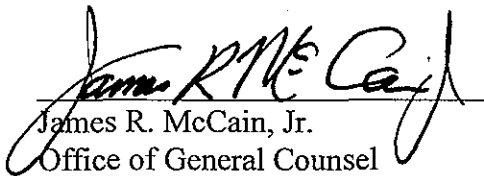
This above stated amount is the maximum fixed monetary amount of the foregoing contract. It shall not be encumbered by the foregoing contract. It shall be encumbered by one (1) or more subsequently issued Purchase Order(s) that must reference the foregoing Contract. All financial examinations and funds control checking will be made at the time such Purchase Order(s) is/are issued.

In accordance with Section 24.103(e) of the *Ordinance Code* of the City of Jacksonville, I do hereby certify that there is an unexpended, unencumbered, and unimpounded balance in the appropriation sufficient to cover the foregoing agreement; *provided however*, this certification is not nor shall it be interpreted as an encumbrance of funding under the Contract. Actual encumbrance(s) shall be made by subsequent purchase order9s0 as specified in said Contract.



Director of Finance
City Contract # 10116
RB

Approved as to form:



James R. McCain, Jr.
Office of General Counsel



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
10/29/2014

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Marsh USA Inc. 1166 Avenue of the Americas New York, NY 10036	CONTACT NAME: Cindy Stathos, Michael Stastny or Terryn Castanon
	PHONE (A/C, No. Ext): (844) 892-0092 FAX (A/C, No): E-MAIL ADDRESS: Please see bottom of 2nd page
INSURED SimplexGrinnell LP 10255 Fortune Parkway Building 500, Suite 120 Jacksonville, FL 32256 United States	INSURER(S) AFFORDING COVERAGE
	INSURER A: ACE American Insurance Company 22667 INSURER B: ACE Fire Underwriters Insurance Company 20702 INSURER C: Indemnity Insurance Company of North America 43575

COVERAGES **CERTIFICATE NUMBER:** 1361345 - A **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> OWNER'S & CONTRACTOR'S PROT GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			HDO G27337818	10/1/2014	10/1/2015	EACH OCCURRENCE \$ \$1,000,000.00 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ \$1,000,000.00 MED EXP (Any one person) \$ \$10,000.00 PERSONAL & ADV INJURY \$ \$1,000,000.00 GENERAL AGGREGATE \$ \$2,000,000.00 PRODUCTS - COMP/OP AGG \$ \$2,000,000.00
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS			ISA H08828362 (All Other States) ISA H08828374 (NH)	10/1/2014 10/1/2014	10/1/2015 10/1/2015	COMBINED SINGLE LIMIT (Ea accident) \$ \$1,000,000.00 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ NEW HAMPSHIRE (CSL) \$ \$250,000.00
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE PRODUCTS - NEW HAMPSHIRE (CSL) \$
A B C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	WLR C48018737 (AZ, CA, MA) SCF C48018749 (WI) WLR C48018725 (All Other States)	10/1/2014 10/1/2014 10/1/2014	10/1/2015 10/1/2015 10/1/2015	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ \$2,000,000.00 E.L. DISEASE - EA EMPLOYEE \$ \$2,000,000.00 E.L. DISEASE - POLICY LIMIT \$ \$2,000,000.00

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Please refer to attached ACORD 101 for further remarks.

CERTIFICATE HOLDER

Evidence of Insurance
 10255 Fortune Parkway
 Suite 120
 Jacksonville, 32256
 United States

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jessica Cullen

MARSH USA INC, BY:
 Jessica Cullen, Casualty Program

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ADDITIONAL REMARKS SCHEDULE

AGENCY Marsh USA Inc.		NAMED INSURED SimplexGrinnell LP	
POLICY NUMBER		10255 Fortune Parkway	
CARRIER		NAIC	Building 500, Suite 120
			Jacksonville, FL 32256
			United States
		EFFECTIVE DATE:	

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,
 FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

REGARDING NOTICE OF CANCELLATION TO CERTIFICATE HOLDERS:

This endorsement modifies the notice of cancellation of insurance provided hereunder:

Should any of the above described policies be cancelled, other than for non-payment of premium, before the expiration date thereof, 30 days advice of cancellation will be delivered to certificate holders in accordance with the policy endorsements.

All other terms and conditions of this policy remain unchanged.

FOR QUESTIONS REGARDING THIS CERTIFICATE OF INSURANCE CONTACT:
 PAMELA MCELROY (Email: PAMCELROY@SIMPLEXGRINNELL.COM Phone: 904-363-0654)

THIS CERTIFICATE OF INSURANCE WAS GENERATED AND DELIVERED BY EXIGIS RiskWorks® rm.Certificates®
 Business Process Automation for Risk Management, Insurance, and Trade Finance
 To learn what EXIGIS can do for your business visit exigis.com or call 800.928.1963