



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Consent

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F.1.

3/11/2025

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### **Subject:**

Assignment of Agreement - The Transit Group, Inc. to Ecological Associates, Inc.

### **Fiscal Impact:**

N/A

### **Dept/Office:**

Natural Resources Management

### **Requested Action:**

It is requested that the Board of County Commissioners approve and authorize the Chair to execute the attached Assignment of Agreement

### **Summary Explanation and Background:**

Brevard County entered into an Agreement with The Transit Group dba Ecological Associates, Inc. on October 23, 2024 for Ecological Continuing Services for work relating to environmental state and federal permit applications, wetland delineation and mapping, protected species services, mitigation/restoration project design, implementation, monitoring, and reporting, feasibility studies for ecological projects, spatial analysis of ecological data, and miscellaneous ecological projects as needed, pursuant to RFQ 8-24-03.

On September 14, 2024, Brevard County received notification that The Transit Group dba Ecological Associates, Inc. intends to dissolve The Transit Group, Inc and transfer all aspects of The Transit Group dba Ecological Associates, Inc. to Ecological Associates, Inc. by the end of 2025.

The Department has no objections to the assignment.

### **Clerk to the Board Instructions:**

Return the certified copy of the Assignment of Agreement to the Natural Resources Management Department, Attention: Shawn Malta



March 12, 2025

**MEMORANDUM**

**TO:** Virginia Barker, Natural Resources Director Attn: Shawn Malta

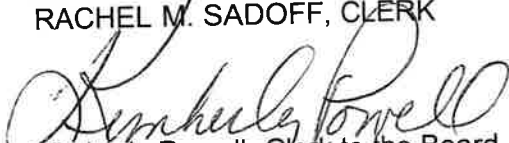
**RE:** Item F.1., Assignment of Agreement between the Brevard County Board of County Commissioners and The Transit Group, Inc. to Ecological Associates, Inc.

The Board of County Commissioners, in regular session on March 11, 2025, executed and approved the Assignment of Agreement between the Board of County Commissioners, The Transit Group, Inc. dba Ecological Associates, Inc., assignor, and Ecological Associates, Inc., Assignee, for Ecological Continuing Consulting Services pursuant to RFQ 8-24-03. Enclosed is a certified copy of the Assignment of Agreement.

Your continued cooperation is always appreciated.

Sincerely,

BOARD OF COUNTY COMMISSIONERS  
RACHEL M. SADOFF, CLERK

  
Kimberly Powell, Clerk to the Board

/kl

Encl. (1)

## **ASSIGNMENT OF AGREEMENT**

This Assignment is made and entered into on the date of the last signature below, by and between the BREVARD COUNTY BOARD OF COUNTY COMMISSIONERS, a political subdivision of the State of Florida (hereinafter "Brevard County"), ECOLOGICAL ASSOCIATES, INC. (hereinafter "Ecological/Assignee"), and THE TRANSIT GROUP, INC. (hereinafter "Transit/Assignor").

WHEREAS, on October 23, 2024, Brevard County entered into an Agreement for Ecological Continuing Consulting Services for work relating to Environmental Resource Permit Applications, ACOE Permit applications, wetland delineation and mapping, protected species permitting, relocation, monitoring/surveying, and reporting, mitigation/restoration project design, implementation, monitoring, and reporting, feasibility studies for ecological projects, spatial analysis of ecological data, and miscellaneous ecological projects as needed, pursuant to RFQ 8-24-03, with Transit (hereinafter "Agreement"); and

WHEREAS, the Agreement has an expiration date of October 23, 2029; and

WHEREAS, the Agreement Transit shall not assign any portion of the Agreement without written approval of Brevard County; and

WHEREAS, Transit/Assignor merged with Ecological/Assignee on September 4, 2024; and

WHEREAS, Transit/Assignor wishes to assign all of its rights and duties under the Agreement with written approval from Brevard County; and

WHEREAS, Ecological/Assignee hereby accepts the assignment of all Transit/Assignor's obligations, responsibilities, and duties under the contract and all of Transit/Assignor's rights, title and interest in and to the Agreement.

NOW, THEREFORE, for value received, and other good and valuable consideration, the parties hereby agree as follows:

1. The above recitals are true and correct and are incorporated herein in their entirety by this reference.
2. All rights, title and interest in the Agreement between Brevard County and Transit/Assignor are hereby assigned and transferred to Ecological/Assignee, and

Ecological/Assignee accepts said assignment and agrees to perform all obligations of Transit/Assignor under the Agreement.

3. Ecological/Assignee agrees to abide by all terms, prices, and conditions of the Agreement.

IN WITNESS WHEREOF, the parties through their duly authorized representatives have hereunto set their hands and seals on the date of the last signature below.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY, FLORIDA



Rob Feltner, Chairman

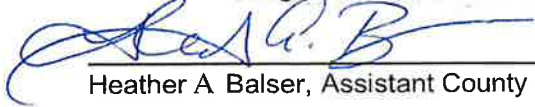
Date: MAR 11 2025

Rachel M. Sadoff, Clerk to the Board



As approved by the Board on: MAR 11 2025

Reviewed for legal form and content:



Heather A. Balser, Assistant County Attorney

The Transit Group, INC.

[Signature]  
Signature

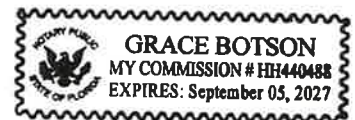
James Sellers, Co-President  
Printed Name/Title

STATE OF Florida

COUNTY OF Martin

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10 day of February, 2025, by James Sellers The Transit Group, Inc. on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public



Ecological Associates, INC.

[Signature]  
Signature

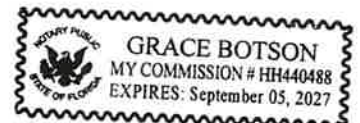
James Sellers, Co-President  
Printed Name/Title

STATE OF Florida

COUNTY OF Martin

The foregoing instrument was acknowledged before me by means of physical presence or online notarization, this 10 day of February, 2025, by James Sellers of Ecological Associates, Inc. on behalf of the corporation. He/she is personally known to me or has produced \_\_\_\_\_ as identification.

[Signature]  
Notary Public



## **CONTRACT REVIEW AND APPROVAL FORM**

### **SECTION I - GENERAL INFORMATION**

<b>1. Contractor:</b> The Transit Group dba Ecological Associates, Inc. <b>2. Amount:</b> N/A	
<b>3. Fund/Account #:</b> 215500-0004	<b>4. Department Name:</b> Natural Resources Management
<b>5. Contract Description:</b> RFQ-8-24-03 Ecological Continuing Consulting Services	
<b>6. Contract Monitor:</b> Shawn Malta	<b>8. Contract Type:</b>  SERVICES
<b>7. Dept/Office Director:</b> Virginia Barker	
<b>9. Type of Procurement:</b> Other	

### **SECTION II - REVIEW AND APPROVAL TO ADVERTISE**

#### **APPROVAL**

#### **COUNTY OFFICE**

**YES**

**NO**

**SIGNATURE**

User Agency

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Purchasing

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Risk Management

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\_\_\_\_\_

County Attorney

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\_\_\_\_\_

### **SECTION III - REVIEW AND APPROVAL TO EXECUTE**

#### **APPROVAL**

#### **COUNTY OFFICE**

**YES**

**NO**

**SIGNATURE**

User Agency

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Malta, Shawn

Digitally signed by Malta, Shawn  
Date: 2025.01.08 10:21:01 -05'00'

Purchasing

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☐

Bowers, Mary

Digitally signed by Bowers, Mary  
Date: 2025.01.29 12:34:53 -05'00'

Risk Management

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☐

Watson, Michael

Digitally signed by Watson, Michael  
Date: 2025.01.28 14:35:18 -05'00'

County Attorney

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☐

Balser, Heather

Digitally signed by Balser, Heather  
Date: 2025.01.14 11:41:59 -05'00'

### **SECTION IV - CONTRACTS MANAGEMENT DATABASE CHECKLIST**

<b>CM DATABASE REQUIRED FIELDS</b>	<b>Complete ✓</b>
Department Information	<input type="checkbox"/>
Department	<input type="checkbox"/>
Program	<input type="checkbox"/>
Contact Name	<input type="checkbox"/>
Cost Center, Fund, and G/L Account	<input type="checkbox"/>
Vendor Information (SAP Vendor #)	<input type="checkbox"/>
Contract Status, Title, Type, and Amount	<input type="checkbox"/>
Storage Location (SAP)	<input type="checkbox"/>
Contract Approval Date, Effective Date, and Expiration Date	<input type="checkbox"/>
Contract Absolute End Date (No Additional Renewals/Extensions)	<input type="checkbox"/>
Material Group	<input type="checkbox"/>
Contract Documents Uploaded in CM database (Contract Form with County Attorney/ Risk Management/ Purchasing Approval; Signed/Executed Contract)	<input type="checkbox"/>
"Right To Audit" Clause Included in Contract	<input type="checkbox"/>
Monitored items: Uploaded to database (Insurance, Bonds, etc.)	<input type="checkbox"/>

## ECOLOGICAL CONSULTING SERVICES CONTRACT

**THIS AGREEMENT** made and entered into on the date of the last signature below, by and between the Board of County Commissioners of Brevard County, Florida, a political subdivision of the State of Florida (hereinafter the "County"), and THE TRANSIT GROUP, INC DBA ECOLOGICAL ASSOCIATES, INC. a business having its primary business location at P.O. Box 405, Jensen Beach, FL 34958-0405, (hereinafter the "CONSULTANT").

### WITNESSETH:

**WHEREAS**, the County is desirous of obtaining services of an Ecological Consultant, and

**WHEREAS**, the County selected the CONSULTANT consistent with Chapter 287.055 of the Florida Statutes, "Consultants' Competitive Negotiation Act," and Brevard County Policy BCC-26, "Acquisition of Consultant Professional Services," and

**WHEREAS**, the provision of such services shall mutually benefit the parties hereto and the residents of Brevard County, Florida.

**NOW THEREFORE**, in consideration of the covenants herein contained, it is mutually agreed between the parties as follows:

**RECITALS: The above recitals are true and correct and are incorporated herein by this reference.**

**SCOPE OF THE WORK:** The CONSULTANT shall be prepared to furnish all labor, materials, equipment, machinery, tools, apparatus and transportation to perform all work or services specified in **Exhibit A**, attached hereto and made a part hereof by this reference.

**TERM:** The term of this Agreement shall begin on the 23<sup>rd</sup> day of October, 2024, and continue for a five (5) year period.

**PAYMENTS:** County shall pay the CONSULTANT for Ecological Consulting Services provided under this Agreement as provided in **Exhibit F** to this Agreement and made a part of this Agreement by this reference. The County reserves the right to deduct from any CONSULTANT invoice an amount for defective or nonconforming work, or for work not provided but invoiced. The County shall remit payment in accordance with Sections 218.70 through 218.79 – Florida Statutes 'Local Government Prompt Payment Act', and Brevard County Administrative Order AO-33 "Prompt Payment of Invoices."

**INDEMNIFICATION:** The CONSULTANT shall indemnify and hold harmless the County and its agents and employees from and against all claims, damages, losses, and expenses, including attorney's fees arising out of or resulting from the performance of its work under this Agreement, where such claim, damage, loss, or expense is caused, in whole or in part, by the act or omission of the CONSULTANT, or anyone directly or indirectly employed by the CONSULTANT, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused by in part by a party indemnified thereunder. In any and all claims against the County, or any of its agents or anyone directly or indirectly employed by the CONSULTANT, or anyone for whose acts any of them may be liable, indemnification obligation under this paragraph shall not be limited in any way by a limitation on the amount or type of damages, compensation or benefits payable by or for the custodial contractor, under workers' compensation acts, or other related policies of insurance. The parties acknowledge specific consideration has been exchanged for this provision.

**MODIFICATIONS TO CONTRACT:** This contract, together with any exhibits, task assignments and schedules constitute the entire contract between the County and the CONSULTANT and supersedes all prior written or oral understandings. This contract and any exhibits, task assignments and schedules may only be amended, supplemented or canceled by a written instrument duly executed by the parties hereto.

**INSURANCE:** The CONSULTANT, at its own expense, shall keep in force and at all times maintain during the term of this Agreement:

- (a) **Workers' Compensation:** Covering all persons conducting operations on County premises or on behalf of the County with limits in the full amount required by statute and in full compliance with applicable laws of the State of Florida.
- (b) **Comprehensive General Liability and Auto Liability:** Including but not limited to bodily injury, property damage, and personal injury with limits of not less than \$1,000,000 combined single limit per occurrence including Contractual Liability incurred under this Contract
- (c) **Professional Liability Insurance:** For errors and omissions in the amounts of \$2,000,000 per claim.
- (d) **Insurance Certificates:** The CONSULTANT shall provide the County with Certificate(s) of Insurance on all the policies of insurance and renewals thereof in a form(s) acceptable to the County. Said Liability Policies shall provide that the County be an additional insured. The County shall be notified in writing of any reduction, cancellation or substantial change of policy or policies at least thirty (30) days prior to the effective date of said action. All insurance policies shall be issued by responsible companies who are acceptable to the County and licensed and authorized under the laws of the State of Florida.

**ATTORNEY'S FEES:** In the event of any legal action to enforce the terms of this contract each party shall bear its own attorney's fees and costs.

**GOVERNING LAW:** This agreement shall be governed, interpreted and construed according to the laws of the State of Florida.

**COMPLIANCE WITH STATUTES:** It shall be the CONSULTANT's responsibility to be aware of and comply with all federal, state and local laws.

**VENUE AND WAIVER OF JURY TRIAL:** Venue for any legal action by any party to this agreement to interpret, construe or enforce this Agreement shall be in a court of competent jurisdiction in and for Brevard County, Florida and ANY TRIAL SHALL BE NON-JURY.

**ASSIGNMENTS:** CONSULTANT shall not assign any portion of this agreement without the written permission of the County.

**TERMINATION:** The parties may terminate this agreement as specified in Exhibit A, the Scope of the Work, Section 13, Termination/Modification of the Contract.

**INDEPENDENT CONSULTANT:** The CONSULTANT shall perform the services under this agreement as an independent CONSULTANT and nothing contained herein shall be construed to be inconsistent with this relationship or status. Nothing in this agreement shall be interpreted or construed to constitute the CONSULTANT or any of its agents or employees to be the agent, employee or representative of the County.

**RIGHT TO AUDIT RECORDS:** In performance of this Agreement, the CONSULTANT shall keep books, records, and accounts of all activities related to the Agreement, in compliance with generally accepted accounting procedures. All documents, papers, books, records and accounts made or received by the CONSULTANT in conjunction with the Agreement and the performance of this Agreement shall be



open to inspection during regular business hours by an authorized representative of the office and shall be retained by the CONSULTANT for a period of three (3) years after termination of this Agreement, unless such records are exempt from section 24(a) of Article I of the State Constitution and section 119.07(1) Florida Statutes.

## **PUBLIC RECORDS:**

- a. Both Parties understand that Brevard County is subject to the Florida Public Records Law, Chapter 119, Florida Statutes. "Public Records" are defined as "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." (see section 119.011(12), Florida Statutes).
- b. CONSULTANT shall ensure that public records which are exempt or confidential and exempt from public records disclosure requirements are not disclosed, except as authorized by law, for the duration of the Contract and following termination of the Contract if the CONSULTANT does not transfer the records to COUNTY.
- c. Pursuant to Section 119.0701, Florida Statutes, a request to inspect or copy public records relating to this Contract must be made directly to the COUNTY. The CONSULTANT shall direct individuals requesting public records to the public records custodian listed below. If the COUNTY does not possess the requested records, the COUNTY shall immediately notify the CONSULTANT of the request and if CONSULTANT possesses the records, CONSULTANT must provide the records to COUNTY or allow the records to be inspected or copied within twenty-four (24) hours (not including weekends and legal holidays) of the request so the COUNTY can comply with the requirements of section 119.07, Florida Statutes. CONSULTANT may also provide a cost estimate to produce the requested documents consistent with the policy set forth in Brevard County Administrative Order AO-47, incorporated by this reference. A copy of AO-47 is available upon request from the COUNTY's public records custodian designated below.
- d. Should COUNTY face any kind of legal action to require or enforce inspection or production of any records provided by CONSULTANT to the COUNTY which CONSULTANT maintains are exempt or confidential from such inspection/production as a public record, CONSULTANT agrees to indemnify the COUNTY for all damages and expenses, including attorney's fees and costs. The CONSULTANT shall hire and compensate attorney(s) who shall represent the interests of the COUNTY as well as the CONSULTANT in defending such action. The CONSULTANT shall also pay any costs to defend such action and shall pay any costs and attorney's fees which may be awarded pursuant to section 119.12, Florida Statutes.
- e. Should CONSULTANT fail to provide the public records, within CONSULTANT's possession and control, to COUNTY within a reasonable time, CONSULTANT may be subject to penalties under section 119.10, Florida Statutes, including civil liability for the reasonable cost of enforcement incurred by the party requesting the records and may be subject to criminal penalties. The CONSULTANT's failure to comply with public records requests is considered a material breach of this Contract and grounds for termination.
- f. Upon completion of the Contract, the CONSULTANT shall transfer, at no cost to the COUNTY, all public records in possession of the CONSULTANT or keep and maintain public records required by the COUNTY to perform the service. If the CONSULTANT transfers all public records to the COUNTY upon completion of the Contract, the CONSULTANT shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONSULTANT keeps and maintains public records upon completion of the Contract, the CONSULTANT shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the COUNTY, upon request from the COUNTY's custodian of public records, in a format that is compatible with the information technology systems of the COUNTY.

**IF THE CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE COUNTY'S CUSTODIAN OF PUBLIC RECORDS C/O MARY**

**BLAKELY, 2727 JUDGE FRAN JAMIESON WAY, VIERA, FLORIDA 32940, (321)-312-4014,  
MARY.BLAKELY@BREVARDFL.GOV.**

**EMPLOYMENT ELIGIBILITY VERIFICATION (E-Verify) AND UNAUTHORIZED ALIEN WORKERS:**

- a. The CONSULTANT shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CONSULTANT during the term of the contract. Upon request, CONSULTANT shall provide acceptable evidence of their enrollment at the time of the submission of the CONSULTANT's bid. Acceptable evidence shall include, but not be limited to, a copy of the fully executed E-Verify Memorandum of Understanding for the business.
- b. CONSULTANT shall expressly require any subcontractors performing work or providing services pursuant to this Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of this Contract.
- c. CONSULTANT agrees to maintain records of its participation and compliance with the provisions of the E-Verify program, including participation by its subcontractors as provided above, and to make such records available to the COUNTY consistent with the terms of CONSULTANT's enrollment in the program. This includes maintaining a copy of proof of CONSULTANT's and any subcontractors' enrollment in the E-Verify Program.
- d. Compliance with the terms of this section is made an express condition of this Contract and the COUNTY may treat a failure to comply as a material breach of this Contract.
- e. A CONSULTANT who registers with and participates in the E-Verify program may not be barred or penalized under this section if, as a result of receiving inaccurate verification information from the E-Verify program, the CONSULTANT hires or employs a person who is not eligible for employment.
- f. Nothing in this section may be construed to allow intentional discrimination of any class protected by law.
- g. COUNTY will not intentionally award a publicly-funded contract to any CONSULTANT who knowingly employs unauthorized alien workers, constituting a violation of the employment provisions contained in 8 United States Code (USC) section 1324a(e)(section 274A(e) of the Immigration and Nationality Act (INA). The COUNTY shall consider a CONSULTANT's intentional employment of unauthorized aliens as grounds for immediate termination of this contract.

**EMPLOYMENT:** The CONSULTANT shall not engage the services of any person or persons now employed by the County, including any department, agency, board or commission thereof, to provide services relating to this contract without written consent from the County.

**SCRUTINIZED COMPANIES:**

- a. The CONSULTANT certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the CONSULTANT or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, or its subcontractors are placed on the Scrutinized Companies that Boycott Israel List or is engaged in a boycott of Israel during the term of this Contract.
- b. If this Contract is for more than one million dollars, the CONSULTANT further certifies that it and its subcontractors are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, Florida Statutes.
- c. Pursuant to Section 287.135, Florida Statutes, the COUNTY may immediately terminate this Contract at its sole option if the CONSULTANT, its affiliates, or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, its affiliates, or its subcontractors

are placed on the Scrutinized Companies that Boycott the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the contract.

d. The CONSULTANT agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this contract.

e. As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize these contracting prohibitions, this section shall become inoperative and unenforceable.

**FOREIGN INFLUENCE ON CONTRACTS:**

If the contract has a value of \$100,000.00 or more, the CONSULTANT shall complete the COUNTY's Foreign Disclosure Form and file any required disclosures with the State of Florida as required pursuant to section 286.101, Florida Statutes.

**PUBLIC ENTITY CRIMES:** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with any public entity in excess of the threshold amount provided in s. 287.017 for CATEGORY TWO for a period of thirty six (36) months from the date of being placed on the convicted vendor list.

**CONSTRUCTION OF AGREEMENT:** The parties hereby acknowledge that they fully reviewed this agreement, its attachments and had the opportunity to consult with legal counsel of their choice, and that this agreement shall not be construed against any party as if they were the drafter of this Agreement.

**NOTICE:** Notice under this agreement shall be given by certified mail or hand delivery as follows:

Brevard County Natural Resources Management Department  
2725 Judge Fran Jamieson Way, Suite A-219  
Viera, FL 32940

and Notice shall be given to the CONSULTANT by certified mail or hand delivery as follows:

The Transit Group, Inc. dba Ecological Associates, Inc.

P.O. Box 405

Jenson Beach, FL 34958

**IN WITNESS WHEREOF**, the parties by and through their duly authorized representatives, have hereunto set their hands and seals on the date of the last signature below.

ATTEST:

BOARD OF COUNTY COMMISSIONERS OF  
BREVARD COUNTY, FLORIDA

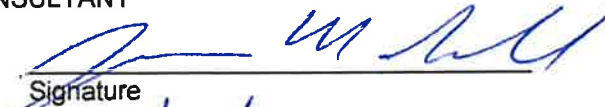
  
Rachel M. Sadoff, Clerk

By:   
Jason Steele, Chair

Date: OCT 22 2024

As approved by Board on: August 22, 2023

CONSULTANT

By:   
Signature

Date: 9/19/24

James Sellers, Co-President  
Name & Title, Typed or Printed

The Transit Group, Inc. DBA Ecological Associates, Inc.  
Name of Company, Corp., etc.

P.O. Box 405  
Mailing Address

Seaside Beach, FL 34958-0405  
City, State, Zip

772-334-3729  
Area Code/Telephone Number

SEAL

ATTEST:   
Signature

Elizabeth A. Reilly, Dir. of People and Admin.  
Name & Title, Typed

## **EXHIBIT A SCOPE OF THE WORK**

### **SECTION 1 – DEFINITIONS**

The following words and expressions shall whenever they appear in the Contract be construed as follows:

<b>ADDENDUM</b>	A written explanation, interpretation, change, correction, addition, or deletion affecting the Contract documents, including drawings and specifications approved by the County and issued by the County.
<b>ARCHITECT</b>	A person or firm that is authorized to practice architecture pursuant to Statute 481.299, or a general contractor who provides architectural services under design-build-contract authorized by F.S. 481.219.
<b>CONSULTANT</b>	The individual or firm retained to perform the specified services and duties as stated in this Contract.
<b>CONTRACT</b>	The written Contract between the County and the Consultant and any modifications and change orders thereto.
<b>COUNTY MANAGER</b>	The County Manager of Brevard County, Florida.
<b>COUNTY DESIGNEE</b>	The County employee designated to oversee the project by the Director. The Designee may be changed at any time during this Contract or during the length of the Task Order by written authorization by the Director.
<b>DELIVERABLE</b>	A work product or collection of work products as required by the specific Task Order that meet the defined design or construction specifications, warranties, and functional parameters articulated in the Scope of the Work for this Contract which include but are not limited to: design drawings/specifications, structures, equipment, machinery, studies, reports, written documentation, training, systems, or processes.
<b>DIRECTOR</b>	The Director of the Natural Resources Management Department.
<b>ENGINEER</b>	The person, firm, or corporation named as such in the Contract and/or authorized by the County to act as the County representative or as the County construction engineer authorized to practice engineering services pursuant to Florida Statute 471.03(2) (i) (2006).
<b>TASK</b>	A major component of work which is described in the Task Order or the work to be accomplished and/or completed by the Consultant.
<b>TASK ORDER</b>	A written Authorization by the County for the Consultant to proceed with the Work described therein.
<b>WORK</b>	The services provided by the Consultant in accordance with the Task Orders, attachments or Addendums.
<b>WRITTEN</b>	This term shall comprise communications between the Consultant and the County including e-mails, FAX, and letters either scanned or sent via regular or express mail.

## **SECTION 2 – GENERAL IDENTIFICATION OF SERVICES**

The Consultant acknowledges and agrees that if the work is assigned to the Consultant, each individual project shall have a specific Task Order agreed to by the parties and executed by both parties.

All professional services provided by the Consultant for the County shall be identified in Task Orders and performed to current professional standards. Draft Task Orders shall be provided by the Consultant within fifteen (15) working days of request by the County, and shall include the following elements, except for modifications issued after execution of the Task Order:

- (1) Scope: a succinct task description and signature page,
- (2) Section I: a thorough description of services to be performed,
- (3) Section II: a detailed schedule for projected completion of the work to be performed,
- (4) Section III: a detailed description and list of all the deliverables, and
- (5) Section IV: a proposed schedule for compensation including a list of key personnel.

Task orders shall receive a number assigned by the County which shall be used by the Consultant on all documents submitted to the County related to that Task Order.

A Task Order shall not give rise to any contractual rights until approved by the County. Once the County and Consultant agree on the compensation to be paid for such services as stated in the Task Order, the County Designee shall approve the Task Order in the form of a written Notice to Proceed signed by the authorized designee of the County. The written Notice to Proceed and specific Task Order, as approved by the County, shall constitute an Addendum to this Contract and therefore the Consultant shall abide by all the requirements stipulated in this Contract. This Contract does not authorize the performance of any work or services to be provided by Consultant or require County to place any Task Orders for work or services. The County makes no covenant or promises as to the number of projects available or that the Consultant will perform any project for the County during the life of this Contract.

Upon receipt of a written Notice to Proceed, the Consultant shall forward a copy of the Task Order and the Notice to Proceed to [Natres\\_EcoMgt@brevardfl.gov](mailto:Natres_EcoMgt@brevardfl.gov)

Task Orders may be issued for specific projects within the original scope of services as outlined below. Generally, the County may request the Consultant to provide the County Continuing Ecological Consulting Services for the following original scope of services:

- (1) Environmental Resource Permit (ERP) applications
- (2) ACOE Permit applications
- (3) Wetland delineation and mapping
- (4) Protected species permitting, relocation, monitoring/surveying, and reporting
- (5) Mitigation/restoration project design, implementation, monitoring, and reporting
- (6) Feasibility studies for ecological projects
- (7) Spatial analysis of ecological data
- (8) Miscellaneous ecological projects as needed

## **SECTION 3 – COUNTY OBLIGATIONS**

The County shall make available to the Consultant any existing data available in the County's files pertaining to the work to be performed under this Contract, including; reports, studies, financial information, and other required existing data that are available in the files of the County and that may reasonably be required by the Consultant for the completion of the required services.

The County shall review the deliverables and other materials submitted by the Consultant and provide

direction to the Consultant as specified in the Task Order. The County shall designate one County staff member to act as Project Manager.

Should the County choose to exercise its option to extend this Contract beyond the initial three (3) year period, which it may so elect on no more than two (2) occasions in increments of one (1) year, the County shall do so through a **Written Notification of Contract Renewal (Exhibit C)** executed by the Director. No new Task Order(s) shall be issued after the time period stated above; however, completion of the services in any ongoing Task Order(s) may extend beyond such term, unless this Contract is terminated by mutual written consent of the parties as otherwise provided herein.

The County shall reimburse the Consultant for required services timely submitted, approved and accepted by the County in accordance with the provision of this Contract and amendments hereto.

## **SECTION 4 – CONSULTANT RESPONSIBILITIES**

Upon receipt of the Notice to Proceed, Consultant agrees to perform professional services associated with the requested work in accordance with (1) the negotiated terms of the applicable Task Order, and (2) current accepted professional standards and practices, and (3) this agreement. The Consultant warrants the adequacy of the final plans, reports, and/or assessments provided under this Contract and resulting Task Order(s), and agrees to correct any errors and omissions, at no additional cost to the County, which may be required because such plans, reports, and/or assessments were found defective. This remedy shall be cumulative to all other remedies available under law.

In connection with professional services to be rendered pursuant to this Contract, the Consultant further agrees to

- (a) make no claims for damages or loss of profits due to the amount of work assigned under this Contract,
- (b) Utilize the approved project team per Section 14.
- (c) maintain an adequate staff of qualified personnel to complete any assigned Task Order(s),
- (d) notify the County of any proposed project team personnel changes during the course of the Contract, and provide qualifications of the new personnel assigned to the project team to the County for written approval,
- (e) ensure that designs/assessments/reports meet all current federal, state and local regulations, requirements, permits, laws or ordinances, and current industry standards in effect and applicable to the project at the time a Task Order is assigned,
- (f) acknowledge the critical nature of proper planning and coordination of utility impacts, right-of-way and easement impacts, field data collection, risk assessment and remediation, and permitting requirements, and to address these issues in each Task Order that the Consultant prepares,
- (g) cooperate fully with the County in the scheduling and coordination of all phases of the work,
- (h) cooperate and coordinate with other County consultants, as directed by the County,
- (i) provide the County with progress reports of the status of the work in an approved format and at the specified frequency stated in the Task Order. (See **Exhibit D** for approved formats.)
- (j) hold pertinent data, calculations, field notes, records, sketches and other projects open to the inspection of the County or its authorized agent at any time,
- (k) submit for County review design or assessment computations, sketches and other data representative of the work's progress at the percentage stages of completion or milestones which may be specified in the applicable Task Order,
- (l) submit for County approval the final work product upon incorporation of any modifications requested by the County during any previous review, and acknowledge that County approval, or the lack thereof, regarding the Consultant's plans, design or assessments shall not be deemed to diminish the Consultant's warranty set forth in this Contract,
- (m) confer with the County during the further development and implementation of assessments or remediation improvements for which the Consultant has provided design or other services,

- (n) interpret plans and other documents at no additional cost during the term of this Contract or the applicant's task order, whichever is longer, and correct errors and omissions, and prepare any necessary revisions not involving a change in the scope of the work required, at no additional cost,
- (o) conduct and complete, prior to final approval of the work by the County, a preliminary check of any documents through any review committee, third party consultant, or any county, city, state or federal agency from which a permit or other approval is required, and acknowledge that any approval or lack thereof obtained from the County or any other agency shall not be deemed to diminish or discharge the Consultant from the warranties imposed by this Contract,
- (p) sign and seal all final plans, documents, surveys, maps, and legal descriptions prepared by Consultant per requirements of the laws, rules, and regulations of any governmental entity having authority over the work, and deliver them to the County after completion of the Task Order, and
- (q) provide digital files in the approved County format (see **Exhibit D**) of any plans, specifications, models, studies, maps, reports or other deliverable documents.

## **SECTION 5 – TIME OF COMPLETION**

The services to be rendered by the Consultant for each section of the work shall commence upon receipt of a written Notice to Proceed from the County, subsequent to the execution of the Contract, and shall be completed within the time stated in the Task Order. Consultant acknowledges that time is of the essence under this Contract.

A reasonable extension of time shall be granted in the event there is a delay on the part of the County in fulfilling its part of the Contract.

Should Consultant be obstructed or delayed in the prosecution or completion of its services as a result of force majeure circumstances – including, but not limited to, the following: acts of God; acts or omissions of any government; any rules, regulations or orders issued by any governmental authority or by any officer, department, agency or instrumentality thereof; fire; flood; storm; earthquake; accident; war; rebellion; insurrection; riot; and invasion – the Consultant shall notify the County of such force majeure circumstances in writing within ten (10) calendar days after commencement of such delay stating the cause or causes thereof, or Consultant shall waive any right the Consultant may have had to request an extension to the Task Order. Such extensions of time as stated in the Task Order shall be the sole remedy of the Consultant for such delays, and the Consultant will not be entitled to any damages or any claim for extra compensation.

## **SECTION 6 – TIME OF COMPLETION**

The County shall have the sole right to determine the order and commencement of units or sections of the work. If the Consultant maintains that a Task Order or subsequent revision requires a change in schedule, a proposed revised schedule shall be, within ten (10) days, submitted in writing for County review, and commencement of any such schedule revision is contingent on the County's approval. Consultant waives any right to make a claim based upon a revision if such notice is not provided.

## **SECTION 7 – COMPENSATION**

The County agrees to pay and the Consultant agrees to accept, for services rendered pursuant to this Contract, fees and other compensation computed in accordance with one or a combination of the methods outlined below, as specified in an approved Task Order:

- (1) **Fixed Fee** – The normal method of compensation by the County, unless specifically designated otherwise in the Task Order, shall be a fixed fee for each milestone deliverable specified in the Task Order. No payment shall be made for partially completed milestones. The fixed fee for each milestone deliverable shall be negotiated with the County and shall be computed on the basis of



the attached Billing Rate Schedule (see **EXHIBIT F**) plus an allowance for reimbursable expenses, if approved by the County.

- (2) Hourly Rate – The Consultant shall be compensated at the attached Billing Rate Schedule (see **EXHIBIT F**) for each hour engaged directly in the work, not to exceed a fixed maximum established for each milestone.
- (3) Reimbursable Expenses – The Consultant shall be compensated for certain work-related expenditures not covered by fees for engineering services, direct reimbursable costs such as permit fees, specialized pre-approved sub-contracted services and use of specialized equipment, if approved. Consultant shall be paid after Consultant provides an invoice for such services directly from the provider. Only specialized contracted services such as a sub-consultant for surveying or additional engineering/assessment or remediation/field work shall include a multiplier rate to be negotiated in accordance with County policies. No other direct reimbursable expenses shall include the multiplier rate. Expenditures shall be previously authorized by the County in an approved Task Order. Upon receipt of satisfactory supporting documentation, the Consultant will be compensated for such reimbursable expenses. Such expenses may include:
  - a. Expenses for document reproduction or other incidental expenses. These expenses shall be reimbursed on a direct cost basis.
  - b. Expenses for travel, transportation and subsistence outside the County limits when required under the approved Task Order for products specifically related to the Task Order, on a direct cost basis or as allowed by law. Travel reimbursement shall be submitted using the State of Florida approved form

Consultant shall not exceed the amount of any task without the prior written approval of the County in the form of an executed Change Order. A lack of planning or schedule control on the part of the Consultant will not be considered as basis for revising the fee proposal.

County and Consultant will negotiate each Task Order Scope of Work prior to the beginning of work. Consultant and County will agree to the hours necessary to complete the Task by position and phase of work, the actual billing rate of employees performing the work, other additional costs as agreed to by the County, and a design schedule. A list of deliverables shall also be provided. The actual billing rates shall not exceed the billing rates contained in **Exhibit F**. Should the Consultant and County be unable to agree to a reasonable Task Order fee, the County will terminate negotiations with that Consultant and attempt to obtain another Consultant's services.

If the Consultant changes personnel assigned to the Task Order during the course of the project, the County reserves the right to adjust the negotiated rate if the County determines that a lesser qualified professional is assigned to the Task Order. No increases due to changes in personnel will be allowed. Annually, ninety (90) days prior to the anniversary of the Contract, the Consultant shall submit their updated hourly billing rate schedule to the County for inclusion in the Contract. The new direct salaries will only apply to Task Orders executed after the anniversary date and not to existing Task Orders. Increases in the hourly billing rates are limited to three (3%) percent annually.

## **SECTION 8 – PAYMENT, PARTIAL PAYMENTS, AND RESOLUTION OF DISPUTES**

For payment promptness, Brevard County shall remit payment in accordance with the Florida Prompt Payment Act, Florida Statutes section 218.70, et seq.

The County shall make payments to the Consultant for all milestones completed and deliverables submitted under the authorized work, and to the satisfaction of the County, to the date of the statement.

- (1) The Consultant shall submit signed invoices as instructed by the County's Project Manager.
- (2) The amount of each invoice submitted shall be the amount due for all eligible services performed to date in connection with authorized work, as certified by the Consultant. Each invoice shall include any authorized work performed during the invoice date of service, must reference the

particular Task Order name and number, and must include the invoice date, invoice number, and a list of the itemized charges. The invoice shall be accompanied by copies of invoices for reimbursable expenses.

- (3) Invoices for work other than lump sum shall include a breakdown for each part of the work billed for each item, and the personnel as identified in **Exhibit F**. Copies of all invoices paid by the Consultant for expenses shall be included with the Consultant's invoice.
- (4) The Consultant's invoice shall be submitted along with the progress report for that billing period.
- (5) County's Project Manager shall review the statement and notify the Consultant in writing within ten (10) days from receipt of the invoice if any amounts requested are disputed or lack adequate support or documentation. County shall indicate in writing what corrective action is needed and the time by which a corrected invoice should be received by the County.
- (6) In the event a dispute occurs between the Consultant and the County concerning payment request or an invoice, such disagreement shall be resolved by a Dispute Committee consisting of representatives of the Natural Resources Management Department, Purchasing Services and the County Attorney.
- (7) Proceedings to resolve any disputed invoice shall commence no later than forty-five (45) days after the date on which a payment request or proper invoice was received by the County and shall follow requirements of Florida Statutes 218.70 – 218.79. Final decision by the County shall be concluded no later than sixty (60) days after the date on which the payment request or proper invoice was received by the County.
- (8) If the dispute is resolved in favor of the County, then interest charges shall begin to accrue fifteen (15) days after the County's final decision. If the dispute is resolved in favor of the Consultant, the interest shall begin to accrue as of the original date the payment became due.
- (9) No later than thirty (30) days from acceptance by Project Manager of all the work or services covered by the submitted invoice, the County shall pay the Consultant the amount due for any undisputed work.
- (10) The County is a tax exempt entity and shall not be charged or invoiced for the payment of taxes for work performed under this Contract.
- (11) Payment of the Final Invoice shall not constitute evidence of County's acceptance of work.
- (12) Final invoice shall be clearly marked as such in bold letters. The Final invoice shall include a report of all the payments made to the Consultant and each Sub-contractor under the Task Order up to date and the amount for the final invoice.
- (13) Where termination of a Task Order is a termination for convenience and not for cause any reasonable and unavoidable costs incurred due to such termination (such as cancelling orders for equipment, materials or services) such payment shall be borne by the County.

## **SECTION 9 – CONTINGENT FEES**

The Consultant warrants that they have not employed or retained any company or person, other than a bona fide employee working solely for the Consultant to solicit or secure this Contract and that they have not paid or agreed to pay any person, company, individual or firm, other than a bona fide employee working solely for the Contract any fee, commission, percentage, brokerage or contingent fee, gift or any other consideration, contingent upon, or resulting from award or making of this Contract. For any breach or violation of this provision, the County shall have the right to terminate this Contract, 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 and any damages and shall be responsible for reporting the details of such breach or violation to the proper legal authorities where and when appropriate.

## **SECTION 10 – DEFAULT**

In the event the Consultant fails to comply with the provisions of this Contract, the County may declare the Consultant in default by written notification. Upon receipt of notification, Consultant will be provided ten (10) days in which to cure. In the event that the Consultant is unable to cure and partial payment has been made for professional services not completed or defectively performed, the Consultant shall return any sums due to the County as a result of Consultant's default within ten (10) days after notice and

demand that said sums are due. The Consultant shall not be compensated on a percentage of any deficient professional services which have been performed at the time the County declares a default. The County shall pay for that portion, if any, of the performed work which is used or useful by any other Consultant retained by the County to finish the work to the extent that the County does not incur additional costs over those set forth in the Consultant's canceled Task Order.

## **SECTION 11 – RIGHT OF APPEAL**

All services shall be performed by the Consultant to current reasonable professional standards and practices and to the reasonable requirements of the County. The County shall decide and dispose of all claims, questions and disputes arising under this Contract. Such determination shall be final, conclusive and binding upon the parties hereto unless such determination is clearly arbitrary or unreasonable. In the event the Consultant does not concur with the decisions of the County, within ten (10) days after determination by the County, the Consultant shall present any such objections in writing to the County and, upon request, any adverse determination shall be referred to an appeal board comprised of a representative of the Purchasing Department, County Manager's Office and another County representative designated by the County Manager for review and disposition at a hearing to be held within ten (10) days after receipt of the appeal. This paragraph does not constitute a waiver of either party's right to proceed in a court of competent jurisdiction, provided that prior to filing any suit the Consultant goes through the appeal process established in this Contract and provided further that the Consultant strictly abides by the ten-day time deadline set forth in this paragraph.

## **SECTION 12 – SUCCESSORS AND ASSIGNS**

The County and Consultant each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Contract and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Contract.

Neither the County nor the Consultant shall assign, sublet or transfer any rights under or interest in (including, but without limitation, monies that may become due or monies that are due) this Contract without the prior written consent of the other, except to the extent that any assignment, subletting or transfer is mandated by law or the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Contract. Nothing contained in this Contract shall be construed as giving any rights or benefits to any person, party, or entity other than the County and the Consultant, and all duties and responsibilities undertaken pursuant to this Contract will be the sole and exclusive benefit of the County and the Consultant, and not for the benefit of any other party.

## **SECTION 13 – TERMINATION/MODIFICATION OF CONTRACT**

In the event the Consultant disregards the authority of the County or violates the provisions of this Contract, or otherwise fails to comply with any provisions of this Contract or if the progress or quality of the work is unsatisfactory, Director or designee may serve written notice to Consultant and if Consultant fails within a period of ten (10) calendar days to correct such failure, County may terminate this Contract upon thirty (30) days written notice to Consultant. Upon termination, Consultant shall immediately cease performance of this Contract and shall deliver to County all completed or partially completed work including but not limited to all original papers, records, drawings, models, and other materials set forth and described in this Contract, within thirty (30) calendar days of the termination date established in the written Notice.

The Consultant may terminate this Contract for any reason upon thirty (30) days written notice, provided that any outstanding approved Task Order is completed by the Consultant.

In the event of termination by the County, the County's sole obligation to the Consultant shall be payment for those portions of satisfactorily and completely performed work previously authorized by approved

Task Order shall be determined on the basis of the work performed by the Consultant, or the percentage of work complete as estimated by the Consultant and agreed upon by the County up to the time of termination. In the event of such termination, the County may, without penalty or other obligation to the Consultant, elect to employ other persons to perform the same or similar services.

In the event of any form of claim, dispute, or controversy by or between the parties to this Contract, the parties expressly and unequivocally agree to engage in good faith efforts to meet in person to resolve any and all such differences. Absent such informal resolution of any/all such dispute(s), the parties expressly agree to engage in pre-suit mediation in accordance with the applicable rules of procedure for such mediation as may be in force in the Judicial Circuit Courts in Brevard County.

The terms of this Contract may be modified upon the mutual Agreement of the Consultant and the County as confirmed in writing.

In the event that the Consultant changes its name, merges with another company, becomes a subsidiary or makes other substantial change in structure or in the principals or project managers of the Consultant, the County reserves the right to terminate this Contract subject to the terms prescribed above.

In the event of termination of this Contract the Consultant agrees to surrender any and all documents prepared by the Consultant for the County in connection with this Contract, of which, the County shall have full ownership thereof, Consultant may retain copies of such documents for record purposes.

## **SECTION 14 – PROFESSIONAL STAFF, LICENSING AND SUBCONTRACTING**

Consultant was selected in part because on the basis of staff employed by the Consultant as identified in the Request for Qualifications (RFQ) submittal provided by the Consultant. The Consultant agrees that the persons identified in said document shall not be removed for the project without prior written approval by the County.

Consultant shall notify County in the event of key personnel changes which might affect this Contract. Notification shall be made within ten (10) days prior to the changes. Any such request shall be supported by comprehensive documents outlining the reason(s) for the proposed substitution and include the specific qualifications of the proposed substitute. County has the right to reject proposed changes in key personnel. Further, County, in lieu of approving a substitution, may initiate other actions under the Contract, including termination.

Consultant shall at all times during the term of this Contract at its own cost and expense, maintain such licenses as are required for the performance of work referenced herein by this Contract.

Consultant shall maintain an adequate and competent staff of professional engineers and/or architects licensed within the State of Florida.

The Consultant shall not sub-contract, assign, or transfer any work under this Contract without the prior written approval of the County. When applicable, the Consultant shall cause the names of any sub-contracted firms responsible for major portions (or separate specialty) of the work to be inserted in the pertinent documents or data. Such written consent includes the approval of a Task Order issued by the County provided the fee proposal for that Task Order indicates the use of such Sub-contractor.

Approval by County of any Sub-contractor for any work shall not relieve Consultant of any responsibility for, or liability in connection with, fulfillment of its obligations under this Contract.

## **SECTION 15 – OWNERSHIP OF DOCUMENTS**

All documents, including but not limited to detailed reports, tracing, disks, plans, models, programs, specifications, maps, contract documents, record documents, original field survey, data notes, and other tangible work products developed by the Consultant pursuant to this Contract and any assigned Task Orders, shall be delivered to and shall become the property of the County without restrictions or limitations upon their use or distribution and shall be made available by the Consultant at any time upon request by the County. When each individual section of work requested pursuant to this Contract is complete, all of the above work products shall be delivered to the County for its use.

The Consultant shall not be liable for any damages, injury or costs associated with the County use or distribution of these documents for purposes other than those originally intended by the Consultant.

The Consultant may not reuse data or work products developed by the Consultant for the County without express written permission of the County.

Any plans which the Consultant provides under this Contract shall contain a statement that they are subject to reuse restrictions in accordance with the provisions of Florida Statutes 287.055.

## **SECTION 16 – QUALITY CONTROL**

The Consultant warrants a high level of quality control and accuracy.

The Consultant shall perform all services with the standard of care and skill ordinarily performed by like professionals performing similar work.

Consultant shall provide the County one copy of the Consultant's QA/QC program for any and all specific Task Orders prior to commencement of any work or issuance of any work. The QA/QC program shall be effective until termination of this Contract and shall address any work by a sub-contractor. The Consultant shall be responsible to submit to the County any updates or revisions to the QA/QC program.

With each major milestone submittal, the Consultant shall submit a written statement signed by the Consultant Project Manager and Principal or the QA/QC officer specified on the Consultant's RFQ submittal, that the work being submitted was prepared in accordance with the Consultant's QA/QC program.

When necessary, the County may request additional data collection or re-analysis of data at no expense to the County. If the original data collected or data analysis is found to be accurate and reasonable, the Consultant shall be compensated for the additional work in accordance with **Section 7** or **Section 8** of this Agreement.

The Consultant acknowledges that the County will periodically and upon completion of each Task Order, evaluate the Consultant's QA/QC program and the Consultant's performance, and that **Consultant Evaluation Forms** (see **Exhibit E**) will be used by the County as appropriate, per Brevard County Administrative Orders AO-35 and AO-45, incorporated herein by this reference, in determining the Consultant's qualifications for future assignments of Task Orders or future Contracts with the County. Copies of AO-35 and AO-45 are available on request.

## **SECTION 17 – NON-EXCLUSIVE CONTRACT**

The parties acknowledge that this Contract is not an exclusive Contract and the County may employ other engineers, professional or technical personnel to furnish services for the County, as the County, in its sole discretion, finds is in the public interest.

The County reserves the right to assign such work to the Consultant as it may approve in the sole discretion of the County.

## **SECTION 18 – TRUTH-IN-NEGOTIATIONS**

In accordance with the provisions of Chapter 287.055, Florida Statutes, the Consultant agrees to execute a **Truth-In-Negotiation Certificate and Affidavit** (see **EXHIBIT B**) stating that wage rates and other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting; and agrees the original Contract price and any additions may be adjusted to exclude any significant sums by which the County determines that price was increased due to inaccurate, incomplete or non-current wage rates and other factual unit costs. All such Contract adjustments shall be made within one (1) year following the end of the Contract.

## **SECTION 19 – DISADVANTAGE BUSINESS ENTERPRISES/EQUAL OPPORTUNITY EMPLOYMENT**

The Consultant shall endeavor to meet the minority business enterprise procurement goal set forth in F.S. 287.042.

During the performance of this Contract, the Consultant will not discriminate against any employee or applicant for employment because of race, color, sex, age religion, ancestry, handicap, marital status or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard of race, color, sex, age religion, ancestry, handicap, marital status or national origin.

## **SECTION 20 – INTEREST OF COMMISSIONERS AND OTHERS**

No officers, members, or employees of the County, and no members of its governing body, and no other public official of the governing body of the locality or localities in which services for the facilities are situated or carried out, who exercises any functions or responsibilities in the review or approval of the undertaking or carrying out of this project, shall participate in any decision relating to this Contract which affects their personal interest, or have any personal or pecuniary interest, direct or indirect, in this Contract or the proceeds thereof.

## **SECTION 21 – INTEREST OF CONSULTANT**

The Consultant covenants that it presently has no conflict of interest and shall not acquire any interest, direct or indirect, which shall conflict in any manner or degree with the performance of services required to be performed under this Contract. The Consultant further covenants that, in the performance of this Contract, no person having any such interest shall be employed.

## **SECTION 22 – ENTIRETY OF CONTRACT**

This writing, together with Task Orders and signed Notices to Proceed that may follow, embody the entire Contract and understanding between the parties hereto, and there are no other Contracts and understandings, oral or written, with reference to the subject matter hereof that are not merged herein.

This Contract supersedes all prior agreements, contracts, proposals, representations, negotiations, letters or other communications between the County and the Consultant pertaining to services whether written or oral.

No alteration, change, or modification of the terms of this Contract shall be valid unless made in writing,

signed by both parties hereto as an addendum to this Contract, or as specifically prescribed in a Task Order.

This Contract, regardless of where executed, shall be governed by and construed according to the laws of the State of Florida.

## **EXHIBIT B**



## TRUTH-IN-NEGOTIATION CERTIFICATE AND AFFIDAVIT

Before me, the undersigned authority, personally appeared Affiant, who being first duly sworn, deposes and says:

- (1) That the undersigned firm is furnishing this Truth in Negotiation Certificate pursuant to Section 287.055(5)(a) of the Florida Statutes for the undersigned firm to receive a Contract for professional services with the Board of County Commissioners of Brevard County, Florida.
- (2) That the undersigned firm is a corporation which engages in furnishing professional engineering services and is entering into a Contract with the Board of County Commissioners of Brevard County, Florida to provide professional services for a project known as the Continuing Consultant.
- (3) That the undersigned firm has furnished the Board of County Commissioners of Brevard County, Florida a detailed analysis of the cost of the professional services required for the project.
- (4) That the wage rate information and other factual unit costs which the undersigned firm furnished were accurate, complete and current at the time the undersigned firm and the Board of County Commissions entered into the Contract for professional services on the project.
- (5) That the Contract which the undersigned firm and Brevard County entered into on this job contained a provision that the original Contract price and any additions thereto shall be adjusted to include any significant sums by which the Board of County Commissioners determines the Contract price was increased due to inaccurate, incomplete or non-current wage rates or other factual unit costs and that all such Contract adjustments shall be made within one year following the end of the Contract.

**FURTHER AFFIANT SAYETH NAUGHT.**

By: \_\_\_\_\_

Title: \_\_\_\_\_

The foregoing instrument was acknowledged before me by James Sellers who has produced identification or is personally known to me.

**WITNESS** my hand and official seal in the State and County last aforesaid this

19 day of September 2024.

(SEAL)

ELIZABETH A. REILLY  
Commission # HH 476355  
Expires April 26, 2028



Elizabeth A. Reilly  
Signature

Elizabeth A Reilly  
Notary Name (typed or printed)

## **EXHIBIT C**

## WRITTEN NOTIFICATION OF CONTRACT RENEWAL

NOTICE is hereby given to \_\_\_\_\_ by the Board of County Commissioners of Brevard County, Florida, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, that the Agreement previously entered into by and between \_\_\_\_\_ and the Board of County Commissioners of Brevard County, Florida, under Contract No. \_\_\_\_\_, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, shall be renewed, pursuant to the notification provisions set forth therein, for an additional period of one year, until the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, under the same terms and conditions otherwise expressed therein.

The original Agreement provided for renewal of the Agreement no more than twice)for a period of one (1) years for each renewal. This is the (first/second) renewal.

EXECUTED ON BEHALF OF THE  
BOARD OF COUNTY COMMISSIONERS  
OF BREVARD COUNTY FLORIDA

By: \_\_\_\_\_  
(Name), Director  
Natural Resources Management Department  
\_\_\_\_\_, 20\_\_\_\_

Authorized Signature:

By: \_\_\_\_\_  
(Name and Title)  
\_\_\_\_\_, 20\_\_\_\_

## EXHIBIT D

### DELIVERABLE FORMATS

#### Approved Hard Copy Formats for Deliverables

Deliverable	Acceptable Formats
Spreadsheets, Databases, & Misc. Documents	8.5"x11", 8.5"x14", and/or 11"x17"
Signed & Sealed Plans and Reports	8.5"x11", 8.5"x14", 11"x17", and/or 24"x36"
Hydrologic Models*	8.5"x11", 8.5"x14", and/or 11"x17"
Plans, Maps, and GIS Maps & Models	11"x17" and/or 24"x36"
Photographs, raster images, etc.	8.5"x11", 8.5"x14", 11"x17", and/or 24"x36"

\* A hard copy of all input data as well as relevant output data shall be included in final submittals.

#### Approved Digital Formats for Deliverables

Deliverable	Acceptable Formats
Spreadsheets, Databases, & Misc. Documents	Standard Microsoft® Office**
Signed & Sealed Plans and Reports	PDF**
Reports	Searchable PDF**
Plans and Maps	Base Version AutoCad® (layers shall be named in a representative fashion, not numbered).
GIS Maps & Models	Shapefiles and/or standard ESRI® format.
Photographs, raster images, etc.	TIFF, JPEG at not less than 400 dpi at the planned print size unless the original is at a lower resolution. Exception: Photographs embedded in reports may be at 300 dpi**
Scanned Documents and Images	PDF or TIFF – not less than 400 dpi and in color unless original is black and white**

\* Alternative modeling formats may be approved on a case-by-case basis if sufficient cause can be shown for modification of the County standard. However, the burden shall be on the Consultant to show that the benefit outweighs the cost of not using a model which may be combined with other County models.

\*\* All documents provided in digital format must comply with Sec 508 of the Rehabilitation Act and Sec 255 of the Communication Act.

#### Additional Requirements:

- (1) All files must be unlocked and without password requirements.
- (2) All linked document, shape files, raster images, drawings, databases, etc. shall accompany the deliverables.
- (3) All supporting plans, maps, models, and spreadsheets, shall be included in the deliverables submitted to the County.
- (4) All linked and supporting documentation shall meet the same deliverable requirements as the primary deliverable.
- (5) In the event program extensions are utilized to produce the major deliverable, those program extensions shall be provided to the County.
- (6) Elevations shall be in the NAVD '88 datum.
- (7) Horizontal coordinates shall be NAD '83.

**EXHIBIT E**  
**CONSULTANT EVALUATION FORMS**

## POST PROJECT CONSULTANT EVALUATION DESIGN/ASSESSMENT PHASE (I)

This evaluation form shall be utilized as a performance evaluation (Project Design/Assessment Phase) for an architect, engineer, consultant, or surveyor acquired through the Competitive Consultants Negotiations Act, Florida Statutes 287.055.

1. Immediately after a project Phase is completed (no later than 30 days), key people from the County's staff independently complete this evaluation form, then meet to discuss and reach a consensus on a composite evaluation.
2. When a consensus is achieved, a copy of the evaluation is sent to the consultant and a meeting scheduled with him, if needed, to discuss the various points of the evaluation.
3. This discussion must be candid and without rancor. The County must be open to allowing the consultant to explain extenuating circumstances which may have contributed to any apparent poor showing. Similarly, the consultant must accept responsibility if the services provided fell short in any areas.
4. Subject to any changes, the evaluation form is signed in the space provided for the County.
5. A copy is given to the consultant, a copy is placed in the County's project file, and a copy is forwarded to the Purchasing Services office for corporate retention.

Name of Consultant \_\_\_\_\_

Project Name \_\_\_\_\_ Project # \_\_\_\_\_

Project Location \_\_\_\_\_

#	Criteria	Excellent	Good	Fair	Poor
1	Did the Consultant meet or exceed major desired schedule milestones in the Contract?	1	2	3	4
2	Did the Consultant design/assessment provided had a realistic budget and was the budget met?	1	2	3	4
3	How would you rate the overall performance of the Consultant in regard to the Design/Assessment Phase (includes Project Design Development, Assessment Documents), and the interface and understanding of the customer's requirements and project goals and objectives?	1	2	3	4
4	Were staff requests/changes/comments/direction, expeditiously followed and adequately addressed?	1	2	3	4
5	What was your general impression as to the quality of the drawings & specifications, reports/assessments, if applicable? (Include errors & omissions, details, completeness, clarity of conclusions and recommendations.)	1	2	3	4
6	What is your general impression as to the talent of this firm and its consultants? What is your impression of the documentation prepared by the firm?	1	2	3	4
8	What is your general overall impression of the Consultants ability to perform on similar projects that have a tight budget and tight schedule?	1	2	3	4
9	Would you hire this firm again or recommend this firm to others?	1	2	3	4

#	Criteria	Excellent	Good	Fair	Poor
10	Did the Consultant assign the people to your project who were named in the project team?	1	2	3	4

COMMENTS:

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Project Manager Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Department/Office Director Signature \_\_\_\_\_

Date: \_\_\_\_\_

## POST PROJECT CONSULTANT EVALUATION CONSTRUCTION PHASE (II)

This evaluation form shall be utilized as a performance evaluation (Construction Phase) for an architect, engineer, or surveyor acquired through the Competitive Consultants Negotiations Act, Florida Statutes 287.055.

1. Immediately after a project Phase is completed (no later than 30 days) key people from the Owner's staff independently complete this evaluation form, then meet to discuss and reach a consensus on a composite evaluation.
2. When a consensus is achieved, a copy of the evaluation is sent to the consultant and a meeting scheduled with him, if needed, to discuss the various points of the evaluation.
3. This discussion must be candid and without rancor. The Owner must be open to allowing the consultant to explain extenuating circumstances which may have contributed to any apparent poor showing. Similarly, the consultant must accept responsibility if his services fell short in any areas.
4. Subject to any changes, the evaluation form is signed in the space provided for the Owner.
5. A copy is given to the consultant, a copy is placed in the Owner's project file, and a copy is forwarded to the Purchasing Services office for corporate retention.

Name of Consultant \_\_\_\_\_

Project Name \_\_\_\_\_ Project # \_\_\_\_\_

Project Location \_\_\_\_\_

#	Criteria	Excellent	Good	Fair	Poor
1	How would you rate the overall performance of the Consultant in regard to Bidding and overall Construction Administration Phase?	1	2	3	4
2	Were you satisfied with field observation and inspections provided by the Consultant? Were field problems identified and handled expeditiously?	1	2	3	4
3	Was there any evidence of material substitutions beyond those called for in the specifications? If an "approved equal" was accepted, was a credit passed on to the Owner?	1	2	3	4
4	What was your general impression as to the quality of the drawings & specifications, if applicable? Include errors & omissions, drawing detail clarity and specification clarity.	1	2	3	4
5	Were shop drawings reviewed expeditiously and completely? Any problems or commendations you can cite?	1	2	3	4
6	Now that you have had some experience with the project, does its operation and use meet your original expectations before it was designed and constructed? What do you like about the project? What would you change if you could?	1	2	3	4
8	What is your general overall impression of the Consultants ability to perform on major programs that have a tight budget and tight schedule?	1	2	3	4



**COMMENTS:**

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**Project Manager Signature:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Department/Office Director Signature** \_\_\_\_\_

**Date:** \_\_\_\_\_

## CONSULTANT'S PERFORMANCE EVALUATION

Date of Evaluation: \_\_\_\_\_

<b>Company Name:</b>	<b>Project Name:</b>
<b>Address:</b>	<b>Location:</b>
<b>Telephone No:</b>	<b>Project Architect:</b>
<b>Facsimile No:</b>	

<b>Project Manager:</b>	<b>Original Contract Amount:</b>
<b>Project Supt:</b>	<b>Change Order Amount:</b>
<b>Original Contract Duration:</b>	<b>Final Contract Amount:</b>
<b>Final Contract Duration:</b>	
<b>Contractual Date of Substantial Completion:</b>	
<b>Actual Date of Substantial Completion:</b>	
<b>Contractual Date of Final Completion:</b>	
<b>Actual Date of Final Completion:</b>	
<b>Scope of Work: (systems, structure, square footage, etc.)</b>	

5=Excellent    4=Good    3=Average    2=Below Avg    1=Unacceptable

Criteria	5	4	3	2	1
Substantial Completion - Ahead/Behind Schedule ± _____ (calendar days)					
Final Completion - Ahead/Behind Schedule ± _____ (calendar days)					
As-Built Documents:					
a) Quality					
b) Timeliness in relationship to Substantial Completion ± _____ (calendar days)					
Owner/Maintenance Manuals:					
a) Quality					
b) Timeliness in relationship to Substantial Completion ± _____ (calendar days)					
Punch List: Timeliness of Substantial Completion ± _____ (calendar days)					
Quality of Work (based upon deficiencies during construction & punch list)					
Change Orders:					
a) Timeliness of Pricing					
b) Timeliness of Execution					

Criteria	5	4	3	2	1
c) Quality/Detail of Pricing					
d) Claims (Quantity)					
Payments:					
a) Timeliness of Submission					
b) Invoicing/Waiver Processing					
c) Payments to Suppliers (partial Release of Liens)					
d) Payment Claims from Suppliers (final Release of Liens)					
Conformance to Plans and Specifications					
Conformance to Plans and Specifications					
Project Supervision					
Housekeeping					
Safety					
Code Compliance (red tags)					
Timeliness of Correspondence and Response to Notice					

Special Problems and/or Comments:

Would you recommend using this Company again? If no, why?

Name & Title of person performing this Evaluation:

\_\_\_\_\_

Name

\_\_\_\_\_

Title

Signature of person performing this Evaluation:

Department/Division Director's Signature:

## EXHIBIT F

### BILLING RATE SCHEDULE

The CONSULTANT and the County agree to the Billing Rate Schedule below, for the job category and services listed. As stated in this Contract, specific project engagements will be provided in a Task Order issued the County to the CONSULTANT. The parties agree that fees and rates shall not exceed those listed below. Any travel by the CONSULTANT for the purposes of this Contract requires prior written approval from the County and will be paid, on a reimbursement basis, in accordance with Brevard County Administrative Order AO-21, incorporated herein by this reference. A copy of AO-21 is available on request.

The maximum hourly rate the CONSULTANT may charge is as follows:

Position/Title	Hourly Rate
Principal Scientist/Engineer	\$191.01
Senior Staff Scientist/Engineer	\$138.23
Staff Scientist/Engineer	\$130.00
Associate Staff Scientist/Engineer	\$100.00
Senior Technician	\$120.00
Technician	\$83.00
GIS Specialist	\$120.00
AutoCAD/Graphics Specialist	\$100.00
Clerical/Administrative Support	\$85.00
Senior Field Manager	\$130.00
Field Manager	\$120.00
Field Supervisor	\$100.00
Field Technician	\$85.00

**WRITTEN CONSENT IN LIEU OF JOINT ANNUAL MEETING  
OF SHAREHOLDERS AND DIRECTORS OF  
THE TRANSIT GROUP, INC.  
a Florida corporation**

Pursuant to Sections 607.0704 and 607.0821, Florida Statutes, and the Bylaws of the Corporation, the undersigned, being all of the members of the Board of Directors and all of the holders of outstanding capital stock of THE TRANSIT GROUP, INC., a Florida corporation (the "Corporation"), and having not less than the minimum number of votes that would be necessary to authorize or take action at a meeting, and in no event by less than a majority-in-interest that would be necessary to authorize or take such action at a meeting, hereby takes the following action:

Description of Action Taken

WHEREAS, the Shareholders of the Corporation are:

Stanley F. DeForest	14 Shares
Margaret DeForest	116 Shares
Transit Group Profit Sharing Plan	470 Shares

WHEREAS, the Shareholder, Stanley F. DeForest, passed away on December 15, 2021 and is survived by his wife, Linda C. DeForest; and

WHEREAS, Linda C. DeForest is the sole beneficiary and Personal Representative of the Estate of Stanley F. DeForest; and

WHEREAS, Stanley F. DeForest, was the Trustee of the Transit Group Profit Sharing Plan; and

WHEREAS, Linda C. DeForest has become Successor Trustee of the Transit Group Profit Sharing Plan; and

NOW, THEREFORE, the Shareholders and Directors of the Corporation hereby adopt the following resolutions:

RESOLVED that this Written Consent shall take the place of the 2022 Annual Meetings of the Shareholders and the Directors of the Corporation.

RESOLVED by the Shareholders of the Corporation that the following persons are hereby elected as the Directors of the Corporation until the next annual meeting and until their successors are elected and qualified or until their resignation or removal pursuant to the Bylaws of the Corporation:

Linda C. DeForest  
Niki Desjardin  
James Sellers

RESOLVED by the Directors of the Corporation that the following persons are hereby elected as the officers of the Corporation for the respective offices indicated until the next annual meeting and until their successors are elected and qualified or until their resignation or removal pursuant to the Bylaws of the Corporation:

Chairperson:	Linda C. DeForest
Co-President:	Niki Desjardin
Co-President:	James Sellers
Secretary:	Niki Desjardin
Treasurer:	James Sellers

RESOLVED that this Written Consent may be signed in multiple counterparts and may be signed and transmitted by electronic means, all which shall constitute a validly signed single document.

Dated effective as of the 23 day of March, 2022.

**SHAREHOLDERS:**

LINDA C. DeFOREST, AS PERSONAL  
REPRESENTATIVE OF THE ESTATE  
OF STANLEY F. DeFOREST

By: Linda C. DeForest  
Linda C. DeForest, Personal Representative

MARGARET DeFOREST

Margaret DeForest  
Margaret DeForest

LINDA C. DeFOREST, AS SUCCESSOR  
TRUSTEE OF THE TRANSIT GROUP  
PROFIT SHARING PLAN

By: Linda C. DeForest  
Linda C. DeForest  
Its: Successor Trustee

**DIRECTORS:**

Linda C. DeForest  
Linda C. DeForest

Niki Desjardin  
Niki Desjardin

James Sellers  
James Sellers

RESOLVED by the Directors of the Corporation that the following persons are hereby elected as the officers of the Corporation for the respective offices indicated until the next annual meeting and until their successors are elected and qualified or until their resignation or removal pursuant to the Bylaws of the Corporation:

Chairperson:	Linda C. DeForest
Co-President:	Niki Desjardin
Co-President:	James Sellers
Secretary:	Niki Desjardin
Treasurer:	James Sellers

RESOLVED that this Written Consent may be signed in multiple counterparts and may be signed and transmitted by electronic means, all which shall constitute a validly signed single document.

Dated effective as of the 23 day of March, 2022.

**SHAREHOLDERS:**

LINDA C. DeFOREST, AS PERSONAL  
REPRESENTATIVE OF THE ESTATE  
OF STANLEY F. DeFOREST

By: Linda C. DeForest  
Linda C. DeForest, Personal Representative

MARGARET DeFOREST

\_\_\_\_\_  
Margaret DeForest

LINDA C. DeFOREST, AS SUCCESSOR  
TRUSTEE OF THE TRANSIT GROUP  
PROFIT SHARING PLAN

By: Linda C. DeForest  
Linda C. DeForest  
Its: Successor Trustee

**DIRECTORS:**

Linda C. DeForest  
Linda C. DeForest

Niki Desjardin  
Niki Desjardin

James Sellers  
James Sellers