

**AGREEMENT BETWEEN
UNIVERSITY OF FLORIDA
AND
CITY OF GAINESVILLE
FOR DEVELOPMENT OF
AUTOMATED CODE REVIEW FOR RESIDENTIAL BUILDING PERMITTING**

This Agreement is entered into this ____ day of _____, 2018, by and between the City of Gainesville, Florida, a municipal corporation (“CITY”), and the University Of Florida Board Of Trustees (“UF”).

WHEREAS, the CITY and UF, through alignment of their respective strategic plans, are partners in an initiative to make Gainesville a New American City, including building systems that use civic innovation to be more responsive to the needs of citizens, which are informed by a set of principles that guide every collaborative decision-making opportunity between local government, citizens and community partners.

WHEREAS, in furtherance of this initiative, UF through its College of Design, Construction & Planning, submitted a Proposal for Automated Code Review dated February 5, 2018, to the CITY’s Department of Doing; and

WHEREAS, the CITY and UF find that implementing the project in the Proposal will benefit the CITY, UF, and the community by providing for automated code review of residential building permit applications in the City of Gainesville, and the performance of analyses and sharing of information in an efficient and equitable manner.

NOW, THEREFORE, in consideration of the foregoing and the covenants and premises contained herein, the Parties hereby mutually agree as follows:

I. RESPONSIBILITIES OF THE PARTIES

A. UF shall have the following responsibilities:

1. **Services.** UF shall perform the scope of work and provide to the CITY the deliverables as described in **Exhibit A** (a) promptly, (b) within the time period, if specified in **Exhibit A**, (c) in accordance with industry standards and practices for the performance of similar services, and (d) in accordance with any specifications or deliverables identified in **Exhibit A**.

2. **Review.** During all phases of the scope of work, CITY shall have the right

to review the design and development work and to make suggestions for improving any deliverable.

3. Documentation. On behalf of the CITY, UF shall prepare and retain, all documentation relating to the operation and performance of any deliverables, including without limitation operational manuals and programming notes and shall update such documentation as necessary, all of which, for the avoidance of doubt, shall be the property of the CITY.

4. Modifications to Design. Should the CITY and UF agree in writing during the term of this Agreement that modifications are necessary, UF shall make such modifications and refine the design and development of the software being developed hereunder in accordance with such agreed modifications. If any such modifications are requested by the CITY, then the CITY shall pay for the cost of such modifications. If such modifications are necessary because of a failure to perform on the part of UF or because the software being developed hereunder does not meet the specifications or any other condition set forth in **Exhibit A**, then any costs associated with such changes shall be the responsibility of UF for no additional charge.

5. Deliverable Issues. UF will promptly notify the CITY of any development problems or similar issues within UF's control or otherwise known by UF that may impact the CITY's ability to receive or use and software or other deliverables outlined in **Exhibit A**, and UF agrees to provide a written notice to the CITY outlining a plan to resolve the problem, and the associated time for such resolution.

6. Review Acceptance and Rejection of Deliverables. UF Shall provide notice to CITY upon completion of the software development outlined in **Exhibit A**, and the CITY shall have thirty (30) days from the date of such notification to test the developed software or any deliverables outlined in **Exhibit A**, unless the Parties agree in writing that the nature and scope of the testing requires additional time. The CITY will notify UF of any defects or nonconformities of the delivered version of the developed software, providing a reasonable description of the nature and circumstances of such defects or nonconformities. If the CITY provides notice of any such defects or nonconformities, then UF shall use best efforts to promptly correct any such defects or nonconformities and shall re-submit the developed software to testing with no further charge to the CITY within ten (10)business days thereafter, or such other time if mutually agreed to by the parties. If UF does not deliver the revised and corrected software or deliverables within such additional time period, or if the revised version of the software still does not conform to the specifications, if applicable, then the CITY at its option may either (a) terminate this Agreement, and in such event no further monies shall be due UF hereunder,; or (b) agree

to permit a further revision of the software within one or more additional three (3) business-day periods, provided that if at the end of any such additional three (3) day period(s) the software as delivered does not conform to the specifications, the CITY may at any such time exercise its termination right. For the avoidance of doubt, if the CITY does not notice of any deficiencies within the proscribed thirty (30) day period, the software and any deliverables will be deemed accepted.

7. Completion. Upon acceptance under subsection (6), the scope of work shall be considered completed. The CITY will not unreasonably withhold the declaration of completion of the services hereunder.

B. CITY Responsibilities. The CITY shall pay UF for performance of the project in accordance with this Agreement, pursuant to Section III, below. In addition, the CITY is free to make for itself, or have made by any third party, any derivative works based on the software and deliverables, and nothing herein shall interfere with the CITY's rights of ownership in any derivative software or deliverables.

C. Ownership of Software and Related Intellectual Property.

1. Upon full payment in accordance with this Agreement, all deliverables under this Agreement, including but not limited to reports, algorithms for implementation of the framework, the software application that integrates with Autodesk Revit, and the BIM standard for the City of Gainesville for residential building permits, shall be owned by the City.

2. UF acknowledges that all original works of authorship which are made by UF as deliverables within the scope of this Agreement and which are protectable by copyright are "works made for hire," pursuant to United States Copyright Act (17 U.S.C., Section 101).

3. To the extent that the software or deliverables do not qualify as a "work made for hire" under the U.S. Copyright Laws, UF agrees to, and does hereby, the CITY all worldwide rights, title and interest in and to any software, any deliverables, or any derivatives thereof, whether created by the CITY or UF, together with all intellectual property rights associated therewith or incorporated therein. In furtherance of the foregoing, the CITY shall be free to make, have made, use, offer for sale, sell, modify, translate, import products utilizing, transfer, and otherwise fully exploit, the software, the derivative software and the deliverables.

4. UF shall retain for itself a non-exclusive royalty-free perpetual license to the intellectual property rights of the software or deliverables developed exclusively under this Agreement limited for the purpose of academic research and education programs and materials including publications. Other than as set forth in the preceding sentence, UF shall have no other rights to the software and deliverables without the CITY's prior written consent. Notwithstanding the foregoing, UF expressly reserves the right to and nothing in this Agreement shall prevent, any UF students or faculty from performing research or working in the general area of automated governmental code review or providing software assistance to other governmental or commercial parties that is independent of the scope of work presented in this agreement.

II. TERM & TERMINATION

A. Term. This Agreement shall become effective upon the date of execution and shall continue for a period of four (4) years, unless otherwise terminated by either party as set forth herein. Both parties will be held responsible to discharge all obligations incurred under this Agreement prior to the effective date of termination.

B. Termination for Convenience. Either party may terminate this Agreement with or without cause, upon ninety (90) days' written notice to the other party

C. Termination for Cause. Either party may terminate this Agreement for cause by giving written notice to the other party, on account of any of the following matters: (i) any willful and material falsification by either party of any service, software, deliverable, report, statement, invoice, or other written data furnished to the other party; (ii) any attempted or purported assignment of this Agreement (without the consent of the other party); or (iii) any breach of this Agreement by either party without cure within thirty (30) days.

D. Effect of Termination. Upon termination of this Agreement for any reason, UF shall immediately discontinue all work under this Agreement. All termination for convenience of this Agreement shall be without penalty to the CITY, except to pay for such pro-rated sums as have accrued under Section III prior to the date of termination. If this Agreement is terminated for cause by the CITY, the CITY shall not owe UF any further amounts which may have otherwise been owed under this Agreement. Upon termination of this Agreement for any reason, UF shall immediately return all copies of the CITY's data, records and other materials (including all Confidential Information) and deliver to the CITY all work in progress, including incomplete work.

III. COMPENSATION

The CITY shall compensate UF for the full and faithful performance of the Agreement for a total of One Hundred Thirty-Four Thousand Two Hundred Thirty-Five Dollars (\$134,235.00) which shall be paid as follows:

- i. \$31,792 upon execution of this Agreement;
- ii. \$32,939.00 at the end of Year 1, after receiving the Deliverables for Year 1;
- iii. \$34,133.00 at the end of Year 2, after receiving the Deliverables for Year 2;
- iv. \$35,371.00 at the end of Year 3, after receiving the Deliverables for Year 3; and

The CITY shall pay UF upon verified invoice within 30 days of receipt, in accordance with the Local Government Prompt Payment Act, Chapter 218, Part VII, Florida Statutes. Payments shall be remitted to:

University of Florida
 Accounts Receivable Manager
 Contracts and Grants Accounting Services
 33 Tigert Hall
 P.O. Box 113001
 Gainesville, FL 32611-3001

IV. **CONFIDENTIALITY.**

A. Confidential Information. UF acknowledges and agrees that this Agreement creates a confidential relationship between UF and the CITY. That confidential relationship is the basis on which the CITY has disclosed, and may in the future disclose, the CITY's proprietary, confidential information pertaining to the software development, deliverables and materials relevant to this Agreement, some of which may be held by the CITY as a trade secret to the extent authorized by applicable law. UF shall safeguard all materials, whether written or otherwise, which the CITY supplies to it and shall not copy or duplicate such materials without the CITY's prior written consent. UF shall take precautions as requested by the CITY, including returning all materials and any copies or derivatives thereof. UF shall keep in strict secrecy and confidence any and all information (whether in print, in electronic media, including on computer disks or tapes, or in any other media, and whether internally generated or used by the CITY under contract with a third party) that UF develops under its obligations under this Agreement, and which has not been publicly disclosed and is not a matter of common knowledge in the areas of business in which the CITY is engaged, including without limitation, customer lists and records, technical data, Intellectual Property, information regarding sales, costs, pricing, marketing, contracts with third

parties, plans for product or market or service developments or improvements, research records, computer programs including source code and object code, computer interfaces or interface mechanisms, processes, business and strategic plans, financial forecasts, compositions, formulas, data (including cost data), drawings, specifications, reports, procedures, techniques, methods, machines, equipment, technology, research and development programs, customer uses and requirements, inventions, ideas, concepts, improvements or copyrights, and any other information that derives economic value, either directly or indirectly, from being confidential or proprietary to, or trade secrets of, the CITY, its affiliates, divisions, contractors, consultants, and its actual or potential customers (any such information shall be referred to herein as “**Confidential Information**”).

B. Non-Use and Non-Disclosure. UF agrees that the Confidential Information is, and shall remain, the exclusive property of the CITY and that, both during and after the term of this Agreement, without the prior written consent of the CITY, UF (i) shall not use or disclose, or cause to be disclosed, any Confidential Information to any third party, partnership, joint venture, contractor, corporation or other business organization; (ii) shall not take, transmit or receive from any office of the CITY, or other location, for UF’s use or the use of any third party, any document, paper, computer-generated media or other property of the CITY containing, Confidential Information (unless necessary to UF’s performance of its obligations under this Agreement); and (iii) upon request by the CITY, or upon the termination of this Agreement, shall immediately deliver and return to the CITY any document, paper, computer/electronic-generated media or other property of the CITY (and all copies of the same) in UF’s possession or under its control that contains, Confidential Information, or is otherwise the property of the CITY.

C. Exceptions to Confidentiality Obligations. Information shall not be considered Confidential Information which:

1. is or later becomes generally available to the public by use, publication or the like, through no fault of UF;
2. is obtained from a third party who had the legal right to disclose such Confidential Information to UF without obligation of confidentiality; or
3. is in UF's prior possession without obligation of confidentiality, as evidenced by UF's written records; or
4. is required by law to be disclosed.

In the event that UF is required by order of a court or other government entity having jurisdiction to disclose any Confidential Information, UF will give the CITY prompt notice thereof

so that the CITY may seek an appropriate protective order. UF will reasonably cooperate with the CITY in its efforts to seek such a protective order.

V. WARRANTIES.

A. Services. UF represents to the CITY that it will diligently perform its obligations under this Agreement to a degree that would be satisfactory to a reasonable person in the CITY's position.

B. Delivery of Software. UF shall deliver the software along with all documentation, source code, object code, deliverables, and other materials necessary to allow the CITY and other third parties to implement, alter, and modify the software. UF's obligations to deliver the software are not complete until such obligations are met.

C. Authority. UF represents to the best of its knowledge that it has full power to enter into this Agreement and to perform fully its obligations set forth in this Agreement. The CITY warrants that it has full power to enter into this Agreement and to perform fully its obligations set forth in this Agreement.

D. Infringement. UF represents and warrants to the CITY that the software, the deliverables, the documentation and all intellectual property rights incorporated therein or associated therewith shall not knowingly in any way infringe upon, misappropriate or violate any rights whatsoever of any third party, including without limitation such third party's intellectual property, proprietary, or contractual rights.

E. No Disabling Programs. UF represents to the best of its knowledge that the software, or any of the deliverables, do not contain any procedures or software, bugs, viruses, trojan horses or other disabling program which can disable or destroy the Software or any of the CITY's data or information.

F. Warranty of Compliance with Applicable Laws. UF represents to the CITY that UF shall meet and comply with all legal and quasi-legal requirements and statutes and safety regulations governing the performance of the Services and any of its obligations under this Agreement.

VI. INDEMNIFICATION.

Each party shall be solely responsible for the negligent or wrongful acts of its officials, agents and employees. Notwithstanding the foregoing, UF agrees to and shall, at its sole expense, defend, protect, indemnify and hold harmless the CITY, and its subsidiaries, divisions, Affiliates, officers, directors, employees, contractors, customers, and agents (each, an "**Indemnified Party**")

from, against and with respect to all demands, claims, causes of action, liability, judgments, damages, fines or expenses (including reasonable attorney's fees and costs) suffered by, or threatened against an Indemnified Party as a result of, or in connection with any breach by UF of any of its representations or warranties set forth in Section V above. In no case will UF waive its sovereign immunity to a degree above the limits laid out in F.S. 768.28.

VII. OTHER PROVISIONS

A. Other Obligations. The obligations of the CITY as to any funding required pursuant to this Agreement shall be limited to an obligation in any given year to budget and appropriate from legally available funds, after monies for essential City services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the CITY shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the CITY pursuant to this Agreement.

B. Independent Contractor. UF shall be considered an independent contractor and as such shall not be entitled to any right or benefit to which CITY employees are or may be entitled to by reason of employment. Except as specifically noted in this Agreement, UF shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by UF in the full performance of the Agreement. UF understands and agrees that as an independent contractor, UF and its officers, agents and employees are not entitled to any wages or benefits due to CITY employees.

C. Sovereign Immunity. Nothing contained herein shall constitute a waiver by either party of their sovereign immunity or the provisions of §768.28, Florida Statutes.

E. Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid to:

CITY:
 Wendy Thomas, AICP
 Director, Department of Doing
 P.O.Box490,Station 12
 Gainesville, FL 32627-0490
 ThomasWC@cityofgainesville.org
 (352) 334-5023

UF:

Technical Issues:
 Dr. Ravi S. Srinivasan
 University of Florida
 Rinker School of Construction
 P.O. Box 115703
 Gainesville, FL 32611
 sravi@ufl.edu
 (352) 273-1164
 (352) 392-1582

Administrative Issues:
 Stephanie Gray
 University of Florida
 Division of Sponsored Programs
 207 Grinter Hall, PO Box 115500
 Gainesville, FL 32611-5500
 ufawards@ufl.edu

F. Entire Agreement. This Agreement contains the entire agreement of the parties, and no representations, warranties or inducements have been made by either of the parties except as expressly set forth herein.

G. Amendments. The parties may amend this Agreement only by mutual written Agreement of the parties.

H. Waiver. The failure of any party to exercise any right in this Agreement shall not be considered a waiver of such right.

I. Binding Agreement and Assignment. This Agreement shall be binding upon the parties and their heirs, legal representatives, successors, and assigns. The parties may not assign this Agreement without prior written consent of all parties.

J. Severability. If any provision of this Agreement is declared void by a court of law or arbitrator of competent jurisdiction, all other provisions will remain in full force and effect.

K. Governing Law and Venue. This Agreement shall be construed and governed in accordance with the laws of the State of Florida, except for its conflicts of laws provisions. Venue shall be in Alachua County, Florida.

L. Third Party Beneficiaries. This Agreement does not create any relationship with, or any rights in favor of, any third party.

M. Force Majeure. Neither Party shall be liable for the failure to perform its obligations under this Agreement if such failure arises out of circumstances beyond a Party's reasonable control, including but not limited to strikes, labor or civil unrest or disturbances, lock outs, riots, wars, fires, floods, hurricanes, tornadoes, or other severe weather disturbances or natural disasters. As soon as circumstances permit and such Party is reasonably able to do so, the Party invoking

this clause shall notify the other party in writing concerning its inability to perform and shall make every reasonable effort to fulfill its obligations under this Agreement. Such delay or inability to perform shall not constitute a breach of this Agreement.

N. Public Records. The parties shall maintain records sufficient to document completion of the scope of services established by this Agreement. These records shall be subject at all reasonable times, upon reasonable advance notice, to review, inspect, copy and audit by persons duly authorized by the requesting party, at that party's expense. These records shall be kept for a minimum of three (3) years after termination of the Agreement. Records that relate to any litigation, appeals or settlements of claims arising from performance under this Agreement shall be made available until a final disposition has been made of such litigation, appeals, or claims.

Florida has a very broad public records law and certain records concerning a contract may be considered public records. Accordingly, by entering into this Agreement, UF and the CITY must:

1. Keep and maintain public records required to perform the service.
2. Upon request a party's custodian of public records, provide said party with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.
3. Ensure that public records that 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 term and following completion of the contract.
4. Meet all applicable requirements for retaining public records.

IF A PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE PARTY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE OTHER PARTY'S CUSTODIAN OF PUBLIC RECORDS AT THE NUMBER OR ADDRESS LISTED IN SUBSECTION E, ABOVE.

[SIGNATURE PAGE FOLLOWS]

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

WITNESS: UNIVERSITY OF FLORIDA BOARD OF TRUSTEES

Kaden B Canfield By: Kaden B. Canfield

Date: 13 October 2018 Title: Asst. Director of Research

WITNESS: CITY OF GAINESVILLE

_____ By: _____

Date: _____ Title: _____

APPROVED AS TO FORM AND LEGALITY

City Attorney's Office

Exhibit A

The Scope of Work and Deliverables:

The proposed research project for automating the permitting process involves the development of the computable representation of building regulations and the mechanisms for exchanging information between regulations and the Building Information Model (BIM) data.

1. The first phase focuses on data collection related to current building process in the City of Gainesville and analysis of the data. The population targeted for this phase are the building department's plan examiners. Although the project focuses on the automation of code checking of key code chapters / sections of the Florida Building Code – Residential (FBC-R) 2017 as listed at the end of this document, we intend to collect data beyond these key code chapters of FBC-R 2017 such as the locations of respondents, the job title, the years of experiences, the type of buildings permit reviewed, the kind of plan review system used, the permit turnaround time, and other parameters to help evaluate the new automated system. The survey response will be collected via online by using Qualtrics. The data will be filtered and analyzed by using Excel and SSPSS. This will provide the necessary feedback about auto code checking system vs. manual system.
2. The second phase includes the Taxonomy formation, analysis, and classification of building regulations, i.e., FBC 2017.
3. The third phase of this inquiry is the development of algorithms for implementation of the framework specific to the key code chapters / sections of the FBC-R 2017 as listed at the end of this document.
4. The fourth phase is the testing, Proof of Concept (POC), and documentation. The POC will comprise examining the compliance of samples of building design projects against the key code chapters / sections of FBC 2017 listed at the end of this document.
5. The final phase is the development of a BIM standard for the City of Gainesville for residential building permits.

In addition, workshops will be held before and after the completion of the project to collect information and feedback and to distribute the findings and tools to end users to get their opinions about the potential impact of the research results.

Project Timeline:

The project timeline is shown below, Figure 1. The first phase of the project is estimated to take about six months, six months for phase two, twelve months for phase three, and 12-24 months for testing, validation, documentation, and BIM standard implementation for the City of Gainesville.

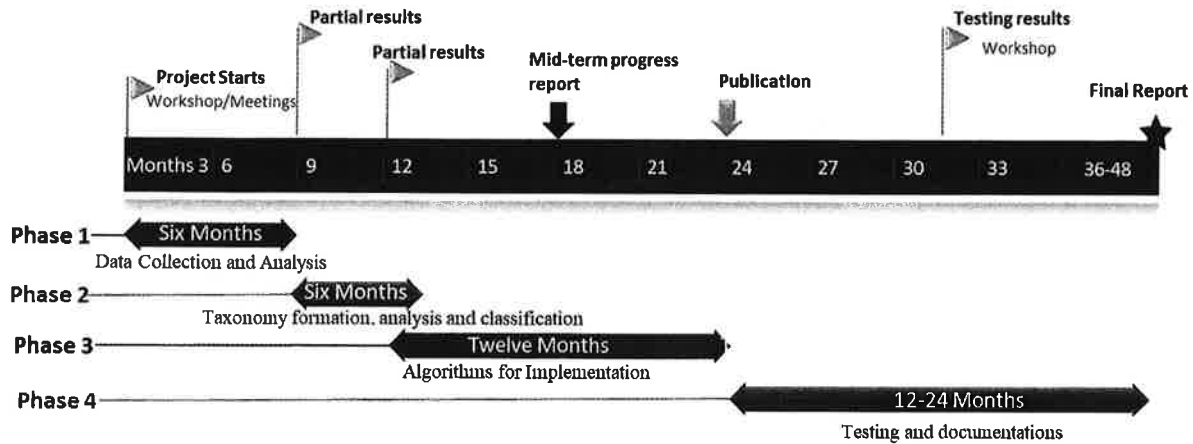


Figure 1: Project timeline schedule.

Project Deliverables:

Year 1: (1) Report on (a) Data Collection and Analysis, and (b) Taxonomy Formation, Analysis and Classification.

Year 2: (1) Report on the details about the computable representation of building regulations and the mechanisms for exchanging information between regulations and the BIM data; (2) The algorithms for implementation of the framework and the software application that integrates with Autodesk Revit platforms

Year 3: (1) Report on updates related to automated code compliance checking and algorithm updates. This algorithm will permit automated code checking of the key code chapters / sections of the FBC-R 2017 as listed at the end of this document. Code provisions referencing structural and/or mechanical engineering notes are not included.

Year 4: (1) Report on updates related to automated code compliance checking and algorithm updates; (2) software application that integrates with Autodesk Revit platforms; and (3) BIM standard for the City of Gainesville for residential building permits.

List of Provisions:

FBC-Residential 2017:

DESIGN CRITERIA [Table R301.2(1)]

ROOM PLANNING REQUIREMENTS (R303 through R305)

EMERGENCY ESCAPE AND RESCUE OPENINGS (R310)

MEANS OF EGRESS (R311)

FOUNDATIONS (Chapter 4) partially: MATERIALS (R402), FOOTINGS (R403)
WALL CONSTRUCTION (Chapter 6) partially: WOOD CONSTRUCTION (R602)
ROOF-CEILING CONSTRUCTION (Chapter 8) Wood trusses (R802.10)
ENERGY EFFICIENCY (Chapter 11) partially: Compliance (N1101.5, N1101.13)