

CONTRACT FOR INTELLIGENT TRANSPORTATION SYSTEM (ITS) MIGRATION

This CONTRACT is entered into this _____ day of _____ 2020, by and between the CITY OF GAINESVILLE, FLORIDA, a municipal corporation (“CITY”), and CLEVER DEVICES LTD. INCORPORATED, a New York corporation registered to do business in Florida (“CONTRACTOR”).

WHEREAS, the parties desire to enter into an agreement for Intelligent Transportation System (ITS) migration, including hosting and cellular service, for 136 fixed routed vehicles.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties hereto agree as follows:

1. The CONTRACTOR shall furnish the labor, materials, and equipment to perform the contract as provided by the following enumerated documents, whether attached to this Contract or incorporated by reference (collectively the “Contract Documents”):

- a. This Contract;
- b. Federal Transit Administration (FTA) Requirements, attached hereto and incorporated as Exhibit A; and
- c. Clever Devices’ proposal titled “Scope of Work to Gainesville Regional Transit System (RTS) for ITS System Migration” dated April 21, 2020, and “Scope of Work to Gainesville Regional Transit System (RTS) for ITS System Migration (Proprietary Information) dated April 21, 2020, attached hereto and incorporated as Exhibit B.

The Contract Documents constitute the entire agreement between the City and Contractor. In the event of conflict or inconsistency between in the Contract Documents, the order of precedence for interpretation shall be the order in which the Contract Documents are listed above. Conflict or inconsistency within a particular contract document shall be resolved by having the more specific reference to the matter prevail. Any modification to the Contract Documents shall only become effective on signed written agreement between the parties.

2. This Contract shall become effective on August 1, 2020 and continue through July 31, 2021.

3. The CONTRACTOR and the CITY further agree that time is of the essence of the Contract and that the work under the Contract is required to be completed by July 31, 2021.

4. The CITY shall pay to the CONTRACTOR for the faithful performance of this Contract at the completion of each milestones upon verified invoice within 30 days of receipt in accordance with the prices in the Proposal, a total fixed sum of Two Million Ninety-Two Thousand Eight Hundred Forty-Four Dollars (\$2,092,844.00).

5. CONTRACTOR 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 the Contract Documents, CONTRACTOR shall be solely responsible for the means, method, techniques, sequences, and procedures utilized by the CONTRACTOR in the full performance of the Contract Documents.

6. Contractor shall maintain the following insurance throughout the term of the Contract:

Worker's Compensation Insurance providing coverage in compliance with Chapter 440, Florida Statutes.

Public Liability Insurance (other than automobile) consisting of broad form comprehensive general liability insurance include coverage in the amount of \$1,000,000 per occurrence written on an occurrence basis (combined single limit for bodily injury and property damage).

Automobile Liability Insurance Property Damage \$500,000 per occurrence (combined single limit for bodily injury and property damage).

The City shall be an additional insured on such Public Liability Insurance, and the Contractor shall provide copies of endorsements naming the City as additional insured. Contractor shall furnish the City a certificate of insurance in a form acceptable to the City for the insurance required. Such certificate or an endorsement must state that the City will be given thirty (30) days' written notice prior to cancellation or material change in coverage (but the City will accept 10 days' written notice of cancellation for non-payment).

7. Contractor agrees to indemnify and hold harmless the City, its officers, and employees from liabilities, damages, losses, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful conduct of the Contractor and persons employed or utilized by the Contractor in the performance of the Contract.

8. Nothing in the Contract Documents shall be interpreted as a waiver of City's sovereign immunity as granted under Section 768.28, Florida Statutes.

9. The Contract shall be governed by and construed in accordance with the laws of the State of Florida, except for its conflict of laws provisions. In the event of any legal action under this Agreement, venue shall be in Alachua County, Florida for any State court action and Gainesville, Florida for any federal court action.

10. Any notice required under this Contract shall be addressed as follows and delivered via US Post or express mail:

CITY

CONTRACTOR

City of Gainesville
PO Box 490, Station
Gainesville, FL 32627
Attn: Roy Darnold

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Clever Devices LTD. Incorporated
300 Crossways Park Drive
Woodbury, NY 11797
Attn: Johnna McQuinn

11. Florida has a very broad public records law and certain records of a contractor may be considered public records. Accordingly, by entering into an agreement with the CITY, CONTRACTOR must:

- a. Keep and maintain public records required by the CITY to perform the service.
- b. Upon request from the CITY's custodian of public records, provide the CITY 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 Chapter 119, F.S., or as otherwise provided by law.
- c. 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 if the CONTRACTOR does not transfer the records to the CITY.
- d. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the CONTRACTOR or keep and maintain public records required by the CITY to perform the service. If the CONTRACTOR transfers all public records to the CITY upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records, in a format that is compatible with the information technology systems of the CITY.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (352) 393-7861, DARNOLDRT@CITYOFGAINESVILLE.ORG, AND ROY DARNOLD, PO BOX 490, STATION 5, GAINESVILLE, FL 32627.

12. This Contract, together with the attached Contract Documents, constitutes the entire agreement between the parties.

13. Any amendments or modifications to this Contract shall be in writing and executed by both parties.

14. This Contract shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by one of the parties. It is recognized that both parties have substantially contributed to the preparation of this contract.

15. This contract does not create any relationship with, or any rights in favor of, any third party.

16. If any provision of this contract is declared void by a court of law, all other provisions will remain in full force and effect.

IN WITNESS WHEREOF the parties have executed this Contract on the day first above written.

CLEVER DEVICES LTD. INCORPORATED:

CITY OF GAINESVILLE:

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM AND LEGALITY

City Attorney