

**AGREEMENT
BETWEEN
THE CITY OF JACKSONVILLE
AND
GATEWAY COMMUNITY SERVICES, INC.**

THIS AGREEMENT by and between the **CITY OF JACKSONVILLE**, a municipal corporation whose address is 117 West Duval Street, Suite 400, Jacksonville, Florida 32202 (“Jacksonville”), and **GATEWAY COMMUNITY SERVICES, INC.**, a Florida not for profit corporation whose address is 555 Stockton Street, Jacksonville, Florida 32204 (“Gateway”), is made and entered into this the ____ day of _____, 2019 (the “Effective Date”).

WITNESSETH:

WHEREAS, Gateway was founded in 1978 by concerned citizens determined to create a supportive and therapeutic environment for Jacksonville citizens in need of treatment for addictive diseases; and

WHEREAS, today Gateway is a recognized leader in the professional treatment of addictive, co-occurring, mental and substance use disorders for adults and adolescents and is the only non-profit medical detox and residential treatment center in northeast Florida; and

WHEREAS, in fiscal year 2017-2018 Gateway served almost 6,000 individuals but in today’s explosive epidemic of opioid use and other drug misuse, Gateway must expand its facilities to better meet this critical need; and

WHEREAS, in late 2015, Gateway launched its first ever capital campaign with the goals of creating a state-of-the-science full care outpatient center, and renovating 40 transitional units for longer term recovery housing and updating the original 68 short term residential units; and

WHEREAS, although the older portion of the building is still in need of upgrades, specifically an HVAC unit, Gateway’s new 12,800 square foot Outpatient/Administration building was completed in the spring of 2017, and Gateway is in the final stages of completing the desperately needed Transitional Recovery Housing for post-residential patients; and

WHEREAS, Jacksonville, pursuant to an appropriation in Ordinance 2019-____-E, desires to provide funding in the amount of \$75,000.00 for the purchase of an HVAC unit and a portion of installation of the unit at Gateway Community Services, Inc (the “Project”); and

WHEREAS, Jacksonville believes that Gateway with supportive services is an important component of rehabilitation, will make a significant difference in the successful recovery of women, men, adolescents, and children sorely in need of support, and will prove beneficial to the health and welfare of citizens of Jacksonville; and

WHEREAS, it is in the mutual interests of Jacksonville and Gateway to work together to facilitate Gateway’s purchase of an HVAC unit and a portion of installation of the unit for the benefit of members of the general public, without discrimination as to age, religion, disability,

marital status, national or ethnic origin, gender, creed, color, or race; and

WHEREAS, Jacksonville and Gateway wish to enter into this Agreement in order to allow Jacksonville to assist Gateway in funding the purchase of an HVAC unit and a portion of its installation at Gateway Community Services, Inc.;

NOW, THEREFORE, for and in consideration of good and valuable consideration, including, but not limited to, the covenants, conditions, and terms hereof, the sufficiency and receipt of said good and valuable consideration being herewith acknowledged by the respective parties, Jacksonville and Gateway stipulate and agree as follows:

1. Recitals. The recitals set forth herein are accurate, correct, and true, and are incorporated herein by this reference.

2. Representations, Warranties, Validity and Binding Effect. Gateway represents, warrants, and agrees as follows:

(a) Gateway is a non profit corporation, duly organized, validly existing, and in good standing under the laws of the State of Florida with full legal right, power, and authority to conduct its operations substantially as presently conducted, and to execute, deliver, and perform its obligations under this Agreement.

(b) After a duly called meeting of its board of directors, at which a quorum was present and acting throughout, Gateway authorized the execution and delivery of this Agreement, and such corporate authorization remains in full force and effect and has not been revoked or modified in any respect whatsoever.

(c) This Agreement is a legal, valid, and binding obligation of Gateway, enforceable against Gateway in accordance with its covenants, conditions, and terms except as enforceability may be limited by equitable principles, or bankruptcy, insolvency, reorganization, moratorium, or other similar laws affecting the enforcement of creditors' rights generally.

(d) The execution and delivery of this Agreement and compliance with the covenants, conditions, and terms hereof will not conflict with or constitute a breach of or a default under the provisions of any applicable federal, state, or local law, ordinance, court judgment, decree, order, administrative regulation, or any agreement, indenture, or other instrument to which Gateway is a party.

(e) Gateway is not in breach of or in default under any applicable federal, state, or local law, ordinance, court judgment, decree, order, administrative regulation, or any agreement, indenture, or other instrument to which Gateway is a party, and no event has occurred and is continuing which, with the passage of time or the giving of notice or both, would constitute a breach or default, which breach or default would affect the validity or enforceability of this Agreement or would affect materially or adversely the financial condition, operation, or properties of Gateway to perform its obligations hereunder.

(f) There is no action, suit, proceeding, inquiry, or investigation, in equity or at law, before or by any court, governmental agency, public board, or body to which Gateway is a party pending or, to the best of its knowledge, threatened against or affecting it (i) contesting its corporate

existence, tax exempt status, powers, or the titles of its officers to their respective offices, (ii) contesting the validity or the power of Gateway to execute and deliver, or affecting the enforceability of, this Agreement, (iii) contesting or affecting the power of Gateway to consummate the transactions contemplated by this Agreement, or (iv) wherein an unfavorable court decision, ruling, or finding would materially affect the financial position of Gateway.

3. As required by Section 126.108, *Ordinance Code*, in its performance of this Agreement, Gateway must comply with any and all applicable federal, state, and local laws, rules, regulations, and ordinances (hereinafter collectively referred to as the "Laws"), only with respect to this Agreement, as such Laws exist and may be amended from time to time. Such Laws shall include, but are not limited to, Chapter 119, Florida Statutes (the Florida Public Records Law), and Section 286.011, Florida Statutes (the Florida Sunshine Law).

4. TRH.

(a) The maximum indebtedness of Jacksonville under this Agreement is SEVENTY-FIVE THOUSAND AND 00/100 DOLLARS (\$75,000.00), subject to the availability of lawfully appropriated funds.

(b) The funds provided to Gateway under this Agreement shall be used to cover the expenses listed in **Exhibit A**, attached hereto and incorporated herein by this reference. Payment shall be made by Jacksonville to Gateway upon certification by the Public Works Department that the Project has been completed.

5. Force Majeure. If Jacksonville or Gateway shall be delayed in, hindered in, or prevented from the performance of any act required hereunder by reason of strikes, lockouts, labor troubles, inability to procure materials, failure of power, restrictive governmental laws, regulations, or actions, war, riots, insurrection, the act, failure to act, or default of the other party, or other reason beyond such party's reasonable control (excluding the unavailability of funds or financing), then the performance of such act shall be excused for the period of the delay and the period for the performance of any such act as required herein shall be extended for a period equivalent to the period of such delay.

6. Miscellaneous:

(a) Notices. Any and all notices which are permitted or required in this Agreement shall be in writing and shall be duly delivered and given when personally served or mailed to the person at the address designated below. If notice is mailed, the same shall be mailed, postage prepaid, in the United States mail by certified or registered mail - return receipt requested. Notice shall be deemed given on the date of personal delivery or mailing and receipt shall be deemed to have occurred on the date of receipt. In the case of receipt of certified or registered mail, the date of receipt shall be evidenced by return receipt documentation. Failure to accept certified or registered mail shall be deemed a receipt thereof within ten (10) days after the first notice of delivery of the certified or registered mail. Any entity may change its address as designated herein by giving notice thereof as provided herein.

If to Jacksonville: Roy Birbal, CFM, Chief of Public Buildings
555 West 44th Street
Jacksonville, Florida 32208

If to Gateway: Raphael Thomas
Facility Manager Gateway
555 Stockton Street
Jacksonville, Florida 32204

With a copy to: _____

or such other address either party from time to time specifies in writing to the other.

(b) Accounting. Gateway shall provide the Public Works Department with a full accounting of the project and expenditures. The accounting shall be in a form approved by the Public Works Department and shall include, but not be limited to, copies of all invoices and checks. The accounting shall be submitted within 30 days after the effective date and shall continue at 30 day intervals until the City funds are spent in their entirety or the project is completed, whichever occurs first. The City's Council Auditor shall have the right to audit Gateway's books and records in connection with Gateway's receipt and expenditure of City funds. Gateway shall submit to City a proper contractor's final affidavit and full and complete releases of liens from each contractor, subcontractor, and supplier, or other proof satisfactory to City, confirming that final payment has been made for all materials supplied and labor furnished in connection with the project.

(c) Legal Representation. Each respective party to this Agreement has been represented by counsel or has knowingly and willfully refused representation by counsel in the negotiation of this Agreement; accordingly, no provision of this Agreement shall be construed against a respective party due to the fact that it or its counsel drafted, dictated, or modified this Agreement or any covenant, condition, or term hereof.

(d) Further Instruments. Each respective party hereto shall, from time to time, execute and deliver such further instruments as any other party or parties or its counsel may reasonably request to effectuate the intent of this Agreement.

(e) Severability of Invalid Provision. If any one or more of the agreements, provisions, covenants, conditions, and terms of the Agreement shall be contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such agreements, provisions, covenants, conditions, or terms shall be null and void with no further force or effect and shall be deemed separable from the remaining agreements, provisions, covenants, conditions, and terms of the Agreement and shall in no way affect the validity of any of the other provisions hereof.

(f) No Personal Liability. No representation, statement, covenant, warranty, stipulation, obligation, or agreement contained herein shall be deemed to be a representation, statement, covenant, warranty, stipulation, obligation, or agreement of any member, officer,

employee, or agent of Jacksonville or Gateway in his or her individual capacity, and none of the foregoing persons shall be liable personally or be subject to any personal liability or accountability by reason of the execution or delivery hereof.

(g) Third Party Beneficiaries. Nothing herein express or implied is intended or shall be construed to confer upon any entity other than Jacksonville and Gateway any right, remedy, or claim, equitable or legal, under and by reason of this Agreement or any provision hereof, all provisions, conditions, and terms hereof being intended to be and being for the exclusive and sole benefit of Jacksonville and Gateway.

(h) Survival of Representations and Warranties. The respective indemnifications, representations, and warranties of the parties to this Agreement shall survive the expiration or termination of the Agreement and remain in effect.

(i) Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the ordinances of the City of Jacksonville. Wherever possible, each provision, condition, and term of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law; but if any provision, condition, or term of this Agreement, or any documentation executed and delivered hereto, shall be prohibited by or invalid under such applicable law, then such provision, condition, or term shall be ineffective to the extent of such prohibition or invalidity without invalidating the remainder of such provision, condition, or term or the remaining provisions, conditions, and terms of this Agreement or any documentation executed and delivered pursuant hereto.

(j) Section Headings. The section headings inserted in this Agreement are for convenience only and are not intended to and shall not be construed to limit, enlarge, or affect the scope or intent of this Agreement, or the meaning of any provision, condition, or term hereof.

(k) Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document.

(l) Entire Agreement. This Agreement contains the entire agreement between the respective parties hereto and supersedes any and all prior agreements and understandings between the respective parties hereto relating to the subject matter hereof. No statement or representation of the respective parties hereto, their agents or employees, made outside of this Agreement and not contained herein shall form any part hereof or bind any respective party hereto. This Agreement shall not be supplemented, amended, or modified except by written instrument signed by the respective parties hereto.

(m) Attorney's Fees and Costs. In any litigation arising out of or pertaining to this Agreement, the prevailing party shall be entitled to an award of its attorney's fees and costs, whether incurred before, after, or during trial, or upon any appellate level.

(n) Time. Time is of the essence of this Agreement. When any time period specified herein falls upon a Saturday, Sunday or legal holiday, the time period shall be extended to 5:00 P.M. on the next ensuing business day.

(o) Waiver of Defaults. The waiver by either party of any breach of this Agreement by the other party shall not be construed as a waiver of any subsequent breach of any duty or covenant imposed by this Agreement.

[Remainder of page left blank intentionally. Signature page follows immediately.]

IN WITNESS WHEREOF, the respective parties hereto have hereunto executed this Agreement for the purposes expressed herein effective the day and year first above written.

ATTEST:

CITY OF JACKSONVILLE

James R. McCain, Jr.
Corporation Secretary

By: _____
Lenny Curry, Mayor

Form Approved:

By: _____
Assistant General Counsel

WITNESSES:

**GATEWAY COMMUNITY SERVICES,
INC.**

Print Name: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

EXHIBIT A
Covered Expenses

CUSTOM AIR

PROPOSAL

BY HARVEY'S FUEL OIL SERVICES INC.

DATE: 5/14/2019

CUSTOMER NAME:	Gateway	OFF#	
CUSTOMER ADDRESS:	555 Stockton St	WK#	
CITY/STATE/ZIP:	Jacksonville, FL 32204	CELL#	
JOB NAME:	Kitchen & Training Room	FAX#	
JOB ADDRESS:		JOB#	
CITY/STATE/ZIP:		ATTN:	Rafael Thomas

bid includes:

- *to install mitsubishi city multi system
- *units by owner as defined in Project Schedule Submitted by Nelson & Company 10/16/18
- *to mount 13 cassetts
- *to set one condenser on roof
- *rework existing steel condenser stand for condensers
- *to run new copper refrigrante lines
- *to run new pvc drain systems
- *to run communcation wire
- *to help with start up

Not included:

- *warrantty of units
- *high voltage wiring
- *units by owner
- *crane
- *roofing
- *any carpentry work needed

Bid: \$ 63,597.00

3 draws of \$21,199.00 with one draw at the start of project
bid good for 90 days

ESTIMATORS SIGNATURE: _____ DATE: _____

CUSTOMERS SIGNATURE: _____ DATE: _____

9805 Arnold Rd Jacksonville, FL 32246 CACC56311

SAM KELLY @ 424-7660

3914 Beach Blvd
Jacksonville, FL 32216
(904)807-9899 phone (904)483-3005 fax
ENG: NA

DATE: APRIL 24, 2018

TO: GATEWAY - RON GREEN
(Quote Valid For 30 Days)

PLANS DATED: NA

RE: ADMINISTRATION BUILDING

ADDENDUMN: NA

I. Unit Schedule:

ITEM	QTY	DESCRIPTION	TAG:
A	1	VARIABLE REFRIGERANT SYSTEM	CC-1~12, WC-1 & 2, FCU-1

II. Description:

A. VARIABLE REFRIGERANT SYSTEM

One (1) VRF Variable Refrigerant System Heat Recovery systems manufactured by **mitsubishi** with the following:

- Outdoor condensing unit (model #: PURY-P216)
- Indoor units
 - Twelve (12) four-way ceiling cassettes (model #: PLFY)
 - One (1) one-way ceiling concealed (model #: PMFY)
- Ball Valves
- 16 port branch controller
- Ten (10) year parts warranty on entire unit
- Start-up and owner training

NOT INCLUDED

- Installation & wiring, ductwork, electrical, permits, additional controls
- BS or coil coatings
- AE-200 central controller with BACnet
- Wired backlit non-programmable unit controllers
- Indoor or outdoor disconnects
- Condensate pumps
- Additional Refrigerant
- Extra Filters
- Mounting stands

Total Price (Items A)..... \$ 45,613.00

F.O.B. factory, freight allowed and prepaid, net 30 days, no taxes included

Thank you for considering Nelson & Company product offering. Please call if you have any questions or concerns at (904) 807-9899.

Sincerely,

Wil Ingram

Terms & Conditions

1. The Scope of Work defines and limits our services for this project. If you have any questions, please let us know. Nelson & Co., LC (“Nelson”) wants to have a clear understanding Scope of Work and related terms before any work commences. Any change orders or supplemental work must be in writing and signed by Client and Nelson.
2. Upon delivery of any materials or supplies, ordered by Nelson, to the project location, the risk of loss or damage passes immediately to the Client and Nelson assumes no responsibility. The Client represents that there is sufficient insurance coverage to cover such risk of loss and that Nelson will be the loss payee for any claim of loss until title passes to the Client. Title to any such materials will pass to the Client only after the final payment for all invoices has been made to Nelson. This paragraph does not apply to any Client supplied materials, which shall remain as Client’s risk of loss or damage.
3. Any additional work performed or upgrade of materials, including any special orders or other purchases made beyond the original scope of work of this project will be invoiced upon authorization by the Client and shall be in writing signed by the Client and Nelson.
4. Nelson will give the Client a reasonable opportunity to review and inspect the work and materials (“work”) provided to the Client. By accepting any goods delivered to the Client, Client acknowledges that such work is in accordance with the Scope of Work and otherwise conforming as defined under Fla. Stat. §§672.001 et seq. In the event the Client rejects any work, such rejection must be in writing and delivered to Nelson within three (3) days of completion of the work or any phase of work, specifying the reason for rejection; otherwise the rejection is invalid. Nelson wants the Client to be completely satisfied and will work to see that all work and materials meet with Client’s approval.
5. The Client releases and holds harmless Nelson from any and all claims for any damages to persons or property directly or indirectly caused by or related to (1) any delays in delivery or shipment of any materials, (2) any damage to materials in delivery or shipment, and (3) any defect in the design or manufacture of any materials or work, including any latent defects or hazards.
6. Unless otherwise noted, the Client has not advised Nelson of any known, hidden, or latent hazards, dangers or defects existing on or at the project location. Any known, hidden, or latent hazards, dangers or defects existing on or at the project location must be disclosed to Nelson in writing before work begins.
7. **Any warranties related to any materials are by the original seller or manufacturer and any such warranties are transferred to the Client along with the title to the materials. Nelson makes no express or implied warranties as to any of the work or materials and specifically excludes any such warranty as to the merchantability or fitness of any work or materials. There are no warranties that extend beyond the face hereof.**
8. Your acceptance of this Project Quote and Scope of Work creates a binding contract (“Agreement”) with Nelson. This Agreement contains the entire understanding of the Client and Nelson as to the scope of work for this project and is made without reliance upon any oral or written promise, warranty or representation not specifically stated within this Agreement. This Agreement can only be changed or modified in writing and signed by both parties.
9. This Agreement shall be interpreted under the laws of Florida. Nelson and Client agree that any dispute arising out of this Agreement shall be brought in the exclusive venue of Duval County, Florida, before the court of appropriate jurisdiction. If any part of this Agreement is determined to be invalid, it shall not invalidate the entirety of the Agreement, but shall be severable.
10. All invoices are due upon receipt and incorporate these Terms & Conditions. Any invoice remaining unpaid after ten (10) days will accrue interest at the rate of 18% per annum, or the maximum allowable interest rate under law, whichever is greater. In the event collection efforts are required to secure payment of any invoice, Nelson is entitled to recover all such collection costs, including court costs and a reasonable attorney’s fee and paralegal fee through trial and any appeals. Client acknowledges that, in addition to any other remedies at law or in equity, Nelson may recover any unpaid materials or work from Client by an action for replevin and that Nelson is entitled to record and enforce its rights as a lienor pursuant to Fla. Stat. §§731.001 et seq.