

COLUMBIA COUNTY AGREEMENT NO. RFP 2023-J
REAL ESTATE BROKERAGE SERVICES AGREEMENT
COLUMBIA COUNTY, FLORIDA AND TWISTED OAKS REAL ESTATE

This AGREEMENT for Real Estate Brokerage Services by and between **Columbia County, Florida**, by and through its Board of Commissioners, (hereinafter "County") with its principal office at 135 NE Hernando Avenue, Lake City, Florida 32055 and **Twisted Oaks Real Estate**, a Florida limited liability company (hereinafter "Twisted Oaks"), with its principal office at 379 W Duval St. Suite 4 Lake City, FL 32055.

ARTICLE I

TERM

This Agreement or Agreements shall be for a period of three (3) consecutive years beginning on June 1, 2023, unless terminated earlier as provided herein. At the end of the initial term, this Agreement or Agreements may be renewed on an annual basis for two additional one- year terms at County's sole discretion, based on continued satisfactory performance by Twisted Oaks.

ARTICLE II

SCOPE OF SERVICES

1. County's Acquisition Agent

Twisted Oaks will act as the County's Acquisition Agent for the negotiation and acquisition of real property in conformity with the Property Acquisition Guidelines listed within RFP 2023-J. Acquisitions include both right-of-way acquisition from private property owners in connection with County infrastructure and road projects as well as acquisition of tracts of real property offered for sale by third parties. Twisted Oaks will be compensated at an hourly rate(s) as shown in the Article III. However, where a seller has placed the property into the Multiple Listing Service ("MLS"), Twisted Oaks will be compensated with a commission on the sale (of that property only) as a buyer's agent would be in any other transaction.

2. Real Estate Brokerage Services

- a. From time to time during the term of this Agreement, the County may declare real property that it owns as surplus real property pursuant to statutory provision. The parties acknowledge that not all real properties declared surplus by the County will be subject to this agreement. Twisted Oaks shall, as requested by County in its sole discretion, list and sell those real properties that have been declared as surplus by the County. Such requests to Twisted Oaks will come in the form of an appropriate task order issued by the County. Twisted Oaks shall have the exclusive right to sell any realty so referred during the term of the task order. Twisted Oaks agrees to make diligent and continued efforts to solicit a purchaser in the form of a highest bidder for the Property in accordance with the Columbia County Purchasing Policies, specifically Section 308.6 of said Policies. All properties will be sold "As Is" to the highest bidder. All properties will be offered to any person without regard to race, color, religion, sex, handicap, familial status, national origin, or any other factor protected by federal, state, or local law.
- b. Each individual property assignment shall be the subject of a supplement to this Agreement, and shall be designated "Task Order No. _____", the "number" being in accordance with the sequence in which the assignments are made. Task orders issued by the County shall include a legal description of the property, address, (if applicable), minimum length of advertising time, minimum pricing determination and such other information deemed necessary by the County.
- c. Any offer made through Twisted Oaks shall be brought to the Board of County

Commissioner in the form of a purchase agreement. Upon approval of the purchase agreements, the County Attorney shall administer the title transfers, closing and land/building leases.

- d. Procurement of a written offer on the property meeting the minimum criteria set forth in any task order does not obligate the County to sell.
- e. In determining the terms and conditions of the disposal of surplus property the Board designee shall take into consideration the following factors:
 - (1) The appraised or assessed value of the real property. In the likelihood the assessed value appears to be low, a Comparative Market Analysis (CMA) report may be used for valuation purposes.
 - (2) The condition of the real property, and the extent to which the party seeking to acquire the property will have to expend funds to make the property usable, rezoning issues excluded, or, to bring the property, if improved, into compliance with the Columbia County Building Code: and
 - (3) The proposed use of the party seeking to acquire the property.
- f. In no event shall the disposition of surplus property violate the County Comprehensive Plan or the zoning regulations of the County.

ARTICLE III COMPENSATION

1. For Acquisition Services, Twisted Oaks will be paid at the hourly rate of **\$28.00/hour**.
2. For Brokerage Services, Twisted Oaks, shall be compensated based on **6 percent (6%)** of the final Board approved purchase price as compensation for finding a buyer that is ready, willing, and able to purchase the Property upon the terms and conditions acceptable to the Board. The compensation shall be due and payable at the closing of the transaction. Compensation for Acquisition Services shall be paid at the rates specified; if Agent/Firm inexcusably fails to complete Task Orders within a mutually agreed upon time payment shall result in liquidated damages for delay and not as a penalty, an amount calculated at the rate of one (1%) of the work/purchase order price per calendar day for the first seven (7) day, and then two (2%) for each day thereafter for failure to meet the required date of completion.

ARTICLE IV STANDARD OF CARE

Twisted Oaks shall perform the services outlined under Article II of this Agreement consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar conditions (the "Standard of Care") and consistent with said Standard of Care, and as more specifically established in subsequent Task Orders in a timely manner consistent with the assignment schedules as mutually agreed upon by the County and Twisted Oaks commencing upon written authorization by the County to proceed with the assignment and terminating upon sale of the property.

ARTICLE V CHANGES IN THE TASK ORDER

County shall have the right at any time during the progress of a particular Task Order to increase or decrease the properties to be listed.

ARTICLE VI ASSIGNMENT/TRANSACTIONAL BROKER

Twisted Oaks shall not assign or transfer any task order under this Agreement without the written consent of the County. Nothing herein shall prohibit Twisted Oaks from cooperation with and

compensation to other brokers in accordance with applicable law. However, any compensation paid to other brokers shall come solely from the compensation due to Twisted Oaks under this agreement. Due to certain events, the Broker may be required to act as the only licensee involved between the County and a buyer to facilitate the transaction between the parties. Under such circumstance, the Broker shall disclose to County its intention to act as a transaction broker or similar role. If a buyer is procured by Twisted Oaks, or by a licensee in the same Twisted Oaks agency, the County consents to Twisted Oaks acting in such a role and agrees to allow Twisted Oaks to collect compensation from the Buyer or other parties. While performing this role, Twisted Oaks agrees to conduct themselves in a manner that does not adversely affect the County or Buyer in any way, including, but not limited to, suggesting the County may be willing to sell for a lesser price, suggesting the Buyer may be willing to pay more than an offer that is made or suggested, or disclosing any type of financial information that would negatively affect the other party. In no event shall price be agreed or negotiated as all property shall sell through an open, competitive auction.

ARTICLE VII TERMINATION

The provisions of this Agreement may be terminated by either party without cause, in which event at least thirty (30) days prior written notice of such termination shall be given to the other.

1. In the event the County causes abandonment, termination, or suspension of this Agreement or any Task Order(s) hereunder, Twisted Oaks shall be compensated for reasonable associated costs incurred in the listing of the property up to the time of such termination on a quantum meruit basis and documents regarding the agreement task order or associated transaction shall remain the property of the County.
2. In the event Twisted Oaks terminates this contract without cause, the County shall have full authority to appropriate or use all data prepared or obtained under a specific Task Order under this Agreement and may enter into an agreement with others for the completion of the work under this agreement. All costs and damages incurred by the County because of such termination by Twisted Oaks, including any additional commission expense to others incurred to complete task order work under this agreement shall be charged to Twisted Oaks. In the event, the commission expense so incurred by the County is less than the sum which would have been payable to Twisted Oaks it had completed the task order, Twisted Oaks shall NOT receive the difference. In case the commission expense exceeds the sum, which would have been payable under the contract, then Twisted Oaks shall be liable to pay the County such excess.

ARTICLE VIII ACCESS TO RECORDS/PUBLIC RECORDS

The County and any duly authorized representative shall have access to any books, documents, papers and records of Twisted Oaks which are directly pertinent to a specific property or Task Order under this Agreement for the purpose of making audits, examinations, excerpts and transcriptions. Further, Twisted Oaks understands that the public shall have access, at all reasonable times, to all documents and information pertaining to County contracts, subject to the provisions and limitations of Chapter 119, Florida Statutes, and agrees to allow access by the County and the public to all documents subject to disclosure as prescribed under applicable law except to those documents properly marked by Twisted Oaks as privileged and confidential. Twisted Oaks shall maintain all contract or task order records for five (5) years after the termination of this agreement whether by expiration or other termination or and after all other pending matters are closed, whichever is later.

Pursuant to Florida Statutes section 119.0701, Twisted Oaks agrees:

- a) To keep and maintain public records required by the County to perform the services herein;
- b) Upon request from the County's custodian of public records, to provide the County with a copy of any 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 by Florida law;
- c) To 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 Twisted Oaks does not transfer the records to the County; and
- d) Upon completion of the contract, to transfer, at no cost to the County all public records in possession of Twisted Oaks or keep and maintain public records required by the County to perform the service. If Twisted Oaks transfers all public records to the County upon completion of the contract, then Twisted Oaks shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Twisted Oaks keeps and maintains public records upon completion of the contract, Twisted Oaks shall meet all applicable requirements for retaining such 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 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 386-758-1326, bccadmin@columbiacountyfla.com.

ARTICLE IX

NO THIRD-PARTY RIGHTS

This Agreement shall not create any rights or benefits to parties other than the County and Twisted Oaks. No third party shall have the right to rely on Twisted Oaks opinions rendered in connection with the Services without the written consent of Twisted Oaks and the County and the third party's agreement to be bound to the same conditions and limitations as the County.

ARTICLE X

INDEMNIFICATION

Twisted Oaks shall indemnify County for any damage, injury or loss claimed by a third-party claimant to the extent caused by the negligence, or willful misconduct of Twisted Oaks, its employees, agents and cooperating brokers. In no event shall the County waive any defense of sovereign immunity available to it under any law or statute.

ARTICLE XI

APPLICABLE LAW AND VENUE

In the event that any action or proceeding is brought to enforce the terms of this Agreement, Florida law shall apply. The parties agree that venue shall only be proper in the state court of appropriate jurisdiction located in Columbia County, Florida, and the prevailing party shall be entitled to recover the cost of the action, including reasonable attorneys' fees and costs.

IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed on this **1st day of June, 2023**.

ATTEST

**COLUMBIA COUNTY BOARD OF
COUNTY COMMISSIONERS**

By: _____
James M. Swisher Jr.
Clerk of Court

By: _____
Rocky Ford, Chairman

Company Name

By: _____
Name , Title