

PALM BEACH COUNTY BOARD OF COUNTY COMMISSIONERS

AGENDA ITEM SUMMARY

Meeting Date: June 11, 2024 [X] Consent [] Regular
Department: Palm Tran [] Ordinance [] Public Hearing

I. EXECUTIVE BRIEF

Motion and Title: Staff recommends motion to:

A). Approve a Memorandum of Understanding (MOU) between South Florida Regional Transportation Authority (SFRTA), Broward County Transit (BCT), Miami Dade Public Works (MDPW), and Palm Tran (PT) setting forth the required cooperation between the Agencies allowing for the purchase of fares and the successful implementation of SFRTA's new mobile application; and

B) Approve an API License and Services Agreement SFRTA Regional App.

Summary: SFRTA has received funding from the Broward County Metropolitan Planning Organization (MPO) for the creation of a Regional Transit Application for South Florida. This project, fully funded by SFRTA through the MPO, will require staff time and a commitment from each transit agency to meet the funding deadline. The mobile application will serve as a method of purchasing other transit agencies' fare media. SFRTA's application will transfer the user over to each separate agencies' platform for the purchase of those fares and for processing.

The API agreement will allow the regional mobile app to leverage the Genfare Link API in Palm Tran's Genfare Link. The SFRTA app will use this API to allow riders who wish to purchase Palm Tran products to create accounts, and use those products. All data for Palm Tran transactions will remain within Palm Tran's Genfare Link. No personal information for riders will be shared, and credit card payments will be processed, as they are today in Palm Tran's system. Countywide (MM)

Background and Justification: The Fare interoperability and Regional Transit Application project has long been in development. This application aims to connect riders throughout the region using different modes of transportation seamlessly with easy access to purchase fares on each agencies' platform. Currently, each agency has its own Fare Structure. Miami-Dade and Tri-Rail have a calendar month pass sold only at certain times of the month. Palm Tran and BCT use a "floating" 31-Day Pass. Palm Tran has fare capping for Daily, Weekly and 31-Day passes. Miami-Dade has different modes of transportation Buses, Metrorail, and the Metromover. Palm Tran has fixed route buses and Flex service with Go Glades. This application will integrate all these different fare structures and modes of transportation.

Attachment(s): 1. Memorandum of Understanding (2) 2. API License and Services Agreement - SFRTA Regional App (2)

Recommended By: Deborah Posay-Blocker Executive Director Date: 5/23/24

Approved By: Assistant County Administrator Date

II. FISCAL IMPACT ANALYSIS

A. Five Year Summary of Fiscal Impact:

Fiscal Years	2024	2025	2026	2027	2028
Capital Expenditures					
Operating Costs					
External Revenues	-	-	-	-	-
Program Income(County)					
In-Kind Match(County)					
NET FISCAL IMPACT	-	-	-	-	-
#ADDITIONAL FTE POSITIONS (CUMULATIVE)					

- Is Item Included in the Current Budget? Yes No
 Does this item include the use of federal funds? Yes No
 Does this item include the use of state funds? Yes No

Budget Account No:
 Fund Agency Organization Object

B. Recommended Sources of Funds/Summary of Fiscal Impact:
 The costs for this project are fully funded by SFRTA through the Broward Metropolitan Planning Org. (MPO)

C Departmental Fiscal Review: 

 Lyne Johnson, Director of Administrative Services

III. REVIEW COMMENTS:

A. OFMB Fiscal and/or Contract Dev. and Control Comments:

_____ _____
 OFMB Contract Dev. & Control

B. Legal Sufficiency

 Assistant County Attorney

C. Other Department Review

 Department Director

(THIS SUMMARY IS NOT TO BE USED AS A BASIS FOR PAYMENT)

MEMORANDUM OF UNDERSTANDING BETWEEN
BROWARD COUNTY; MIAMI-DADE COUNTY; PALM BEACH COUNTY; AND
SOUTH FLORIDA REGIONAL TRANSPORTATION AUTHORITY,
GOVERNING THE DEVELOPMENT OF THE REGIONAL MOBILE APPLICATION
FOR FARE INTEROPERABILITY AMONG THE PARTICIPATING AGENCIES IN
BROWARD, MIAMI-DADE, AND PALM BEACH COUNTIES (THE “TRI-COUNTY
AREA”)

This Memorandum of Understanding (“MOU”) is entered into on _____, 20_____, by and among the South Florida Regional Transportation Authority (“SFRTA”), Broward County (“BCT”), Miami-Dade County (“DTPW”), and Palm Beach County (“PalmTran”). These agencies are referred to collectively herein as the “Parties” or “Participating Agencies.”

1. Background and Purpose. There are currently several modes of public transit offered by the Participating Agencies in the Tri-County area, including but not limited to, Miami Dade Metrobus and Metrorail, Broward County Transportation Bus Service, Palm Beach County Palm Tran Bus Service and Tri-Rail Commuter Rail Service. Each Party has its own fare collection system. The Parties have participated in a joint working-group and ongoing discussions regarding the procurement of a regional application for fare interoperability by SFRTA to support the various Participating Agencies. This MOU governs the development and ongoing support of such regional mobile application for fare interoperability among the Participating Agencies (referred to herein as the “Regional App”). Apart from terms defined in this MOU, any other defined terms are included in Exhibit A.

. Responsibilities of the Participating Agencies. The Parties agree that each Participating Agency shall be responsible for the following:

- a. Engagement with the CONTRACTOR, Genfare, in an Application Programming Interface (API) Agreement to govern the CONTRACTOR’S access to and use of fare collection, payment transaction, schedule, General Transit Feed Specification (GTFS) and General Transit Feed Specification Realtime (GTFS-RT) resources in pursuit of the development and ongoing maintenance of the Regional Mobile Application for Fare Interoperability.
- b. Participation in all phases of the development, testing and launch of the Regional Mobile Application for Fare Interoperability as delineated in the milestones section below.
- c. Provision of project personnel for the discovery, development, testing and implementation phases.
- d. SFRTA and Genfare will provide a project schedule, with dates and times so that the IT staff, finance, customer service, and marketing staff can appropriate time for the project.

. Regional App Milestones.

Discovery Phase

SFRTA and Genfare will work with each Participating Agency to gather information regarding:

- Technical access via API(s) and/or other mechanisms to each Participating Agency’s AFCS back office.
- Fare policies, including transfer and qualified discount requirements
- Each Participating Agency’s desired terms and conditions for use of the app and the sale of their fare products

- General and agency-specific requirements for Payment Card Industry Data Security Standard (PCI) compliance and user data protection.
- Technical Mechanisms for qualified discount and full fare customer accounts
- Customer service procedures and mechanisms
- Current and desired reporting functions
- Each Participating Agency's list of participating project team members
- Each Participating Agency's list of app implementation / support team members
- Roles and responsibilities for each Participating Agency's implementation / support team members.

The Discovery Phase will produce the following products for the review and approval of each Participating Agency:

- Summary documents containing all information gleaned from the discovery phase for each Participating Agency, including fare policies, desired terms and conditions for use of the app and the sale of their fare products and general and agency-specific requirements for Payment Card Industry Data Security Standard (PCI) compliance and user data protection.
- A document describing the technical functions and agency workflows associated with each Participating Agency's administration of their connection to the app.
- A document, complete with screen mock-ups to capture the customer experience proposed in the app design.
- A User Acceptance Testing (UAT) plan document
- A tentative schedule for the project phases that follow.
- A contact list for each Participating Agency's participating project team members
- A contact list for each Participating Agency's participating implementation / support team members
- Documents delineating roles and responsibilities for each Participating Agency's implementation / support team members

Development Phase

Genfare and the Genfare subcontractors will develop the app solution component for each Participating Agency in accordance with the approved discovery and design documents developed during the Discovery Phase. Each Participating Agency will provide timely feedback as required during this phase. Following development, SFRTA and Genfare will update the tentative schedule developed as a product of the Discovery Phase.

Testing Phase

SFRTA, Genfare and the Genfare subcontractors will work with each Participating Agency to execute app testing in accordance with the User Acceptance Testing (UAT) plan document. Each Participating Agency will provide a staff of testers as identified in the Discovery Phase. Each Participating Agency will provide timely feedback as required during this phase. Each Participating Agency will provide a "punch-list" of items to be addressed following initial rounds of testing.

Agency Acceptance

Following the address of all items identified on the punch lists developed during the testing phase, each Participating Agency will provide formal written acceptance of the functionality of their portion of the Regional Fare Interoperability Mobile App. SFRTA and Genfare will then work with all Participating Agencies to update the Implementation portion of the project schedule.

Implementation

Genfare will publish the Regional Fare Interoperability Mobile App in accordance with the implementation schedule updated following Acceptance by each Participating Agency. Each Participating Agency will then provide ongoing app support, including potential feedback to Genfare in accordance with the documents delineating roles and responsibilities for each agency's implementation / support team members and the list of each Participating Agency's implementation / support team members developed as deliverables in the Discovery Phase.

- . **Compensation.** SFRTA agrees to fund the development, implementation and deployment of the Genfare Regional Mobile Application for Fare Interoperability project, subject to receipt of Broward MPO funds in an amount equal to \$1,343,258, as outlined in the milestones section above. In addition, SFRTA agrees to fund, subject to receipt of Broward MPO funds in an amount equal to \$1,343,258, the maintenance and support of the Regional Mobile Application for Fare Interoperability for SFRTA and the Participating Agencies for a period of five (5) years following the "Go Live" milestone, subject to the Participating Agencies entering into the necessary agreement(s) with GenFare.
 - . **Compliance with Applicable Laws and Regulations.** Each Party shall comply with all applicable existing and future laws, statutes, ordinances, codes, rules, regulations, and procedural requirements, whether federal, state, or local. Each Party shall be responsible for ensuring compliance by its employees, contractors, agents or assigns with all applicable county, state, and federal requirements.
 - . **Representation.** Each Party shall designate one or more individuals in writing to function as liaison and representative to the others and shall notify the others in writing of such designation. Each Party shall promptly notify the others in writing of any changes in such designation. The purpose of this representative is to facilitate activities related to this MOU and to be the point of contact for each Party.
 - a. Provide a communication plan regarding how SFRTA will coordinate with the four agencies throughout this project.
7. **Amendments or Modifications.** Amendments or modifications to this MOU may only be made in writing and shall not be effective unless executed by the Parties.
8. **Effective Date; Termination.** This MOU shall become effective upon execution by all of the Parties ("Effective Date") and shall continue until terminated by mutual agreement of the Parties. Notwithstanding any provision in this MOU to the contrary, any Party may elect to withdraw from this MOU at any time and without liability to any other Party by giving ten (10) days written notice of such withdrawal to the other Parties. Withdrawal will only be effective

as to the Party giving notice of withdrawal and this MOU will remain in force and effect among the remaining Parties. Upon the effective date of withdrawal, the withdrawing Party shall have no further obligations under this MOU.

- 9. Notice.** Notices to under this MOU shall be in writing sent by U.S. Mail and email addressed to the following:

DTPW: Eulois Cleckley, Department of Transportation and Public Works Director and CEO
701 NW 1st Court Suite 1700
Miami, FL 33136
Eulois.Cleckley@miamidade.gov

With copy to: MDC County Attorney's Office

BCT: Coree Cuff Lonergan, General Manager
and Director of Transportation, Broward County
1 North University Drive, Suite 3100A Plantation, FL 33324
CCUFFLONERGAN@broward.org

BCT: Tim Garling, Deputy General Manager
1 North University Drive, Suite 3100A Plantation, FL 33324
TGARLING@broward.org

With copy to: Broward County Attorney's Office

Palm Tran: Yash Nagal, PalmTran Interim Executive Director
301 N. Olive Avenue,
West Palm Beach, FL 33401

With copy to: Palm Beach County Attorney's Office

SFRTA: David Dech, SFRTA Executive Director
801 NW 33rd Street
Pompano Beach, FL. 33064
Dechd@sfrta.fl.gov

With copy to: SFRTA General Counsel

- 10. Term.** The term of this MOU shall be for the sum of the time for Genfare to perform the Work, which is currently from the date of Notice to Proceed, through and including September 30, 2024, and for the five (5) year the Initial Subscription Term (as that term is defined in Agreement No. 24-008). Nothing in this section in any way modifies the right of each Party to terminate this MOU as provided in Section 8 above.

- 11. Sovereign Immunity.** Nothing contained herein is intended nor shall be construed to waive any Party's rights and immunities provided to it by law and as may be limited by Section

768.28, Florida Statutes. The Parties agree to be individually responsible for any claims or damages, to the extent and limits provided in Section 768.28, F.S., arising from the actions of their own respective employees and agents. The Parties acknowledge that the foregoing shall not constitute an agreement by any Party to indemnify the other, nor a waiver of sovereign immunity, nor a waiver of any defense that a Party may have under such statute, nor as a consent to be sued by third parties.

12. Dispute Resolution. Should a dispute arise between the Parties regarding this MOU, the Parties agree that if the dispute cannot be resolved by the respective Project Managers, then the dispute shall be escalated to the respective heads of each transit agency, who shall attempt to meet at their earliest convenience, but no later than thirty (30) days after the Project Managers fail to resolve the issue, to address the dispute. Each Party agrees to make good faith efforts to address the dispute in a manner amenable to all Parties.

IN WITNESS OF THE FOREGOING, the Parties have caused this MOU to be signed as of the Effective Date by their duly authorized signatories.

ATTEST:

MIAMI-DADE COUNTY

By: _____
Witness

By: _____
Title: _____

_____ DAY OF _____, 20__

Approved as to form and legal sufficiency:

Title: _____

PALM BEACH COUNTY FLORIDA by its
BOARD OF COUNTY COMMISSIONERS

ATTEST:

By: _____
Deputy Clerk

By: _____
Mayor

_____ DAY OF _____, 20__

Approved as to form and legal sufficiency:

Approved as to Terms and Conditions

County Attorney

Executive Director, Palm Tran

BROWARD COUNTY, through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Director of Transportation, authorized to execute same by Board action on the 16th day of April 2024.

COUNTY

BROWARD COUNTY, by and through its
Director of Transportation

By: _____
Director of Transportation

_____ day of _____, 2024

Approved as to form by
Andrew J. Meyers
Broward County Attorney
5 South Andrews Avenue, Suite 423 Fort
Lauderdale, Florida 33301 Telephone: (954)
57-7600

William J.
By Bucciero  Digitally signed by William J.
Bucciero
Date: 2024.03.27 12:20:30
-04'00'
William Bucciero (Date)
Assistant County Attorney

By  2024.03.27
14:42:34 -04'00'
Nathaniel Klitsberg (Date)
Transportation Surtax General Counsel

SOUTH FLORIDA REGIONAL
TRANSPORTATION AUTHORITY, a body
politic and corporate and an agency of the State of
Florida created pursuant to Chapter 343, Florida
Statutes.

ATTEST:

By: _____
Anthony Cariveau
Chief Contracting Officer

By: _____
DAVID W. DECH
Executive Director

_____ DAY OF _____, 20__

Approved by General Counsel as to legal
form and sufficiency:

TERESA J. MOORE, Esq.
General Counsel

Exhibit A

Definitions

For purposes of the MOU the following definitions shall apply:

“**Acceptance**” means the approval of the SFRTA and/or partnering agencies of a specified milestone and acknowledgement that the milestone was met and/or the deliverable is compliant with the terms of the underlying agreement.

“**Application Programming Interface (API)**” means mechanisms that enable two software components to communicate with each other using a set of definitions and protocols.

“**Contractor**” means a business or entity that agrees to perform work under terms of a contract.

“**Contractor’s Warranty**” means the Warranty provided by the Contractor in compliance with the Contract Documents, including the requirements of the STCs.

“**Project Schedule**” or “**Schedule**” means the Project schedule developed and updated, as needed or required, by the Contractor which is submitted to SFRTA for Approval.

“**Punch List**” means a document created before the final inspection to outline all remaining work, and the contractor, project owner, or any other key stakeholders can add to it.

Additional definitions in Agreement No. 24-008 shall govern this Agreement, if applicable.

**API LICENSE AND SERVICES AGREEMENT
SFRTA REGIONAL APP**

THIS API LICENSE AND SERVICES AGREEMENT (the “Agreement”) is made as of the ____ day of _____, 2024 (“Effective Date”) by and between Genfare, LLC, having a place of business at 800 Arthur Avenue, Elk Grove Village, IL 60007 (“Genfare”) and [INSERT TRANSIT AGENCY NAME], having a place of business at _____ (“Transit Agency”) each a Party and collectively the “Parties”.

- A. Genfare offers Genfare Products (defined below) for use by the Transit Agency to implement and manage multi-media fare collection and Transit Agency service across and with different modes of transportation under the Transit Agency Agreement (defined below).
- B. The South Florida Regional Transportation Authority (“SFRTA”) is also a customer of Genfare, under a separate agreement (the “SFRTA Agreement”) and Transit Agency has authorized SFRTA and Genfare the right to use certain portions of the Genfare Products licensed by Transit Agency and Transit Agency Data for SFRTA to offer and operate a regional trip-planning and ticketing application (the “Regional App”) licensed and supported by Genfare.
- C. Transit Agency wishes to participate in the Regional App and make trip-planning and ticket sales available to riders in connection with the Regional App.
- D. SFRTA and Transit Agency desire a software interface between Transit Agency’s computer system, Transit Agency’s Software, and/or Genfare Products and SFRTA’s computer system, SFRTA Software, and/or Genfare Products to facilitate Transit Agency’s participation in the Regional App.
- E. Transit Agency desires Genfare to provide professional services for the implementation and consulting services to set up, configure, and test the use of the Genfare Materials and provide consulting to develop Third-Party Interfacing Software (defined below).
- F. Genfare agrees to assist Transit Agency in providing a software interface between the Regional App and the Genfare Products of Transit Agency and to provide the professional services requested by Transit Agency under the terms set forth below.

NOW, THEREFORE, in consideration of the mutual covenants, promises, terms, and conditions contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound hereby, Genfare and Transit Agency agree as follows:

1. Definitions

- 1.1 “API” means the application programming interface provided by Genfare to enable interoperability between the Genfare Products of both Transit Agency and SFRTA, Transit Agency Software and/or Data, SFRTA Software and/or Data, and/or Third-Party Interfacing Software.
- 1.2 “Transit Agency Data” means all data provided to Genfare by Transit Agency or generated through Transit Agency’s use of its Genfare Products or Genfare Materials, including Personally Identifiable Information and other information that is not made generally available by the Transit Agency on public websites or publications or provided to third parties without appropriate confidentiality obligations, including but not limited to business, administrative and financial data, intellectual property, and customer, student and personnel data.

- 1.3 **“SFRTA Data”** means all data provided to Genfare by SFRTA or generated through SFRTA’s use of the its Genfare Products or Genfare Materials, including Personally Identifiable Information and other information that is not made generally available by the Transit Agency on public websites or publications or provided to third parties without appropriate confidentiality obligations, including but not limited to business, administrative and financial data, intellectual property, and customer, student and personnel data.
- 1.4 **“Transit Agency Software”** means one or more software applications licensed by, developed by or on behalf of Transit Agency, and not provided by Genfare, that are to interface with and interoperate with the Genfare Products through the API.
- 1.5 **“SFRTA Software”** means one or more software applications licensed by, developed by or on behalf of SFRTA, and not provided by Genfare, that are to interface with and interoperate with the Genfare Products through the API.
- 1.6 **“Documentation”** means any documentation or specifications made available by Genfare in connection with the API.
- 1.7 **“Genfare Materials”** means the API and the Documentation, as further identified in Schedule A.
- 1.8 **“Genfare Products”** means the organizational module of Genfare’s software as a service offering, Genfare Link, used by the Transit Agency under the Transit Agency Agreement or by SFRTA pursuant to the SFRTA Agreement. The Regional App shall be considered a Genfare Product licensed for use to SFRTA.
- 1.9 **“Third-Party Interfacing Software”** means one or more software applications or software services intended to interface with and interoperate with the Genfare Products through the API.
- 1.10 **“Transit Agency”** is the transit agency executing this Agreement and with whom Genfare has entered into the Transit Agency Agreement.
- 1.11 **“Transit Agency Agreement”** is that certain Subscription and License Agreement between Genfare and the Transit Agency through which Genfare provides services to the Transit Agency.

2. Services

2.1 Genfare Materials

2.1.1 Subject to the terms of this Agreement and during the Term (as defined in Section 4.1), Genfare agrees to grant Transit Agency a limited, non-exclusive, non-transferable, non-sublicensable right to access and use the Genfare Materials for the sole purpose of interfacing with and interoperating between the Regional App and the Genfare Products licensed by the Transit Agency directly or through the use of a Third-Party Interfacing Software (the “License”). The Genfare Materials will be integrated into the Genfare Products, hosted by Genfare, and used by Genfare in performing Services under this Agreement and the SFRTA Agreement and will not otherwise be available to Transit Agency.

2.1.2 Unless expressly agreed otherwise in Schedule A, the Genfare Materials are to be used for the purpose of Transit Agency participating in the Regional App only, and not for the benefit of, or to provide services to, any third party. Transit Agency’s rights granted under this Agreement may not be leased, sublicensed or otherwise transferred or made available for use by third parties, in whole or in part, by Transit Agency without Genfare’s prior written consent or as expressly permitted in this Agreement. Transit Agency shall not use or attempt to use the Genfare Materials in a manner that would exceed the scope of the rights granted under this Agreement and Schedule A, or facilitate any such unauthorized access of the Genfare Products, the Regional App, or of the Genfare Materials for any third party. Transit Agency shall not use or attempt to use the Genfare Materials in violation or contravention of any applicable law, regulation, generally accepted practices or guidelines in the relevant jurisdiction and shall not use or

attempt to use the Genfare Materials for any purpose other than as expressly set forth in this Agreement and the Documentation. Transit Agency shall not reverse engineer, decompile, or disassemble any technology underlying the Genfare Materials or Regional App or otherwise attempt to discover the source code to the Genfare Materials or Genfare Products and shall not permit any third party to do so.

2.1.3 Genfare may audit Transit Agency's use of the Genfare Materials for compliance with the terms of this Agreement. Transit Agency agrees to cooperate with such audit and provide Genfare with reasonable assistance and access to information.

2.1.4 Transit Agency acknowledges and agrees that its access to and participation in the Regional App is at the sole discretion of SFRTA, and that Genfare has no ability to otherwise grant Transit Agency access to the SFRTA Software, SFRTA Data, the Regional App or the software or data of any other participant of the Regional App and therefore, have no obligation or liability to Transit Agency in connection with Transit Agency's ability to use the Regional App.

2.1.5 Updates and Modifications. Genfare has no obligation to update the Genfare Materials to be compatible with new versions or releases of Transit Agency Software or Third-Party Interfacing Software not provided by Genfare or to modify the Genfare Materials to provide additional features or functionalities. Genfare may, at its sole discretion, update or modify the Genfare Materials and/or the Genfare Products. Transit Agency further understands that updates or modifications to the Genfare Materials or the Genfare Products may (a) remove or restrict previously existing functionality and/or (b) require Transit Agency to update or modify the Transit Agency Software or the Third-Party Interfacing Software. Transit Agency is responsible for any upgrades or updates to the Transit Agency Software not provided by Genfare or Third-Party Interfacing Software not provided by Genfare required to maintain interoperability with the Genfare Materials.

2.1.6 Support and Maintenance. Transit Agency understands and acknowledges that this Agreement does not create any obligation on Genfare's part to provide Transit Agency with any support or maintenance of the Genfare Materials. If Transit Agency observes an issue with the functionality of the Genfare Materials or Regional App, Transit Agency shall report such issue to SFRTA which will facilitate support from Genfare.

2.2 Professional Services. During the Term of this Agreement and if specified, Genfare will perform certain professional services (the "Professional Services") for Transit Agency as listed in Schedule A or as may from time to time otherwise be mutually agreed to by the parties in writing. Genfare will provide the Professional Services for the fees set forth in Schedule A or as otherwise agreed to in writing.

3. Payment

3.1 Fees. Transit Agency agrees to pay Genfare the Fees set forth in Schedule A for the license to the Genfare Materials and the Professional Services. For the initial term of this Agreement, Fees for this Agreement are paid by SFRTA under the SFRTA Agreement as described in Schedule A.

3.2 Taxes. Fees stated in Schedule A do not include applicable taxes. Unless Transit Agency is a tax exempt entity and provides Genfare with reasonable documentation demonstrating tax exempt status, Transit Agency agrees to bear and be responsible for the payment of all taxes, except for taxes based upon Genfare's income, including but not limited to, all sales, use, rental receipt, personal property, customs duties or levies or other taxes, which may be levied or assessed in connection with this Agreement. Transit Agency shall pay such tax when due or reimburse Genfare as Genfare may request. If any tax is required to be paid by Genfare, the full amount of such tax, including any interest and penalties, will be billed to Transit Agency together with other Fees or separately, whether or not this Agreement is then in effect, and promptly paid by Transit Agency.

3.3 Invoice Terms. All payments under this Agreement must be made no later than forty-five (45) days from the invoice date except as otherwise provided in Schedule A. Genfare may impose a late payment charge equal to the lesser of (a) one and one-half percent (1.5%) per month or (b) the maximum rate allowed by law, beginning thirty-one (31) days from the invoice date.

4. Term; Termination

4.1 The term of this Agreement shall begin on the Effective Date and shall continue until Transit Agency's access to the Genfare Products or this Agreement is terminated as provided below or for the fixed term otherwise designated in Schedule A (the "Term").

4.2 Either Party may terminate this Agreement for a material breach by the other Party that is not cured within thirty (30) days after its receipt of written notice of such material breach.

4.3 Genfare may immediately terminate this Agreement if (i) Transit Agency or SFRTA becomes insolvent or bankrupt or ceases to do business, (ii) Transit Agency breaches its obligations under the provisions of Article 5 or 6 below, (iii) the Genfare Materials are, in Genfare's sole opinion, no longer commercially viable, (iv) the Genfare Materials or the Professional Services are deemed, or Genfare reasonably believes the Genfare Materials or the Professional Services violate an applicable local, state, or federal law or regulation, (v) the Transit Agency or SFRTA is no longer using the Genfare Products, (vi) the Transit Agency or SFRTA requests such termination of Transit Agency's use of the Genfare Materials or Genfare Products in writing, or (vii) the SFRTA Agreement is terminated for any reason.

4.4 Upon termination for any reason, Transit Agency shall immediately cease any use of the Genfare Materials and Transit Agency and SFRTA shall not receive any refund of any Fees (including any prepaid license fees).

5. Confidential Information

5.1 In connection with this Agreement, each Party may disclose to the other Party information that relates to the disclosing Party's business operations, financial condition, customers, products, services or technical knowledge, including the Genfare Materials and Transit Agency Data, which is either identified as confidential or reasonably should have been understood by the receiving Party to be confidential ("Confidential Information"). "Confidential Information" does not include any information that (i) was in the public domain through no fault of the receiving Party; (ii) was received from a third party who had a lawful right to disclose such information (without corresponding confidentiality obligations) to it; or (iii) was independently developed by or for the receiving Party without use of the Confidential Information of the disclosing Party.

5.2 Subject to Transit Agency's obligation to disclose certain portions of a document under Chapter 119 of the Florida Statutes, popularly known as the "Public Records Act" (but only to the extent required by such Act), each Party will use at least the same degree of care to safeguard and to prevent disclosure of the Confidential Information as it employs to avoid unauthorized disclosure of its own Confidential Information, and in any event, no less than reasonable care. Each Party may disclose Confidential Information to its employees to the extent such disclosure is reasonably necessary for the performance of its obligations, or the enforcement of its rights, under this Agreement; provided, however, that such Party will use reasonable efforts to ensure that all such persons comply with these confidentiality provisions. Each Party may disclose the other Party's Confidential Information to third party service providers who reasonably need to know the Confidential Information in order to fulfill the Party's obligations under this Agreement, provided that: (a) such third party service providers are not competitors of the other Party, and (b) such third parties are subject to written confidentiality obligations substantively similar to this Agreement and are restricted to using the Confidential Information for the sole purpose of providing the contracted services to the Party. Each Party will be responsible for any improper disclosure of Confidential Information by such Party's employees, agents, contractors and third party service providers.

- 5.3 Upon expiration or termination of this Agreement, each Party will return or destroy (and provide certification of such destruction), all documentation in any medium that contains or refers to the other Party's Confidential Information. Subject to the foregoing confidentiality obligations, either Party may retain copies of the Confidential Information of the other Party to the extent required to document its performance or for compliance with applicable laws or regulations.
- 5.4 Notwithstanding anything in this Section 5 to the contrary, a Party may disclose Confidential Information to the extent required to satisfy any legal requirement of a competent governmental or regulatory authority, provided that (to the extent permitted by law) it promptly advises the other Party of such request prior to making such disclosure and provides a reasonable opportunity to the other Party to object to such disclosure or take such other action as it considers appropriate to protect the Confidential Information.

6. Ownership; Restricted Rights

- 6.1 As between Transit Agency and Genfare, Genfare retains all ownership of, and all intellectual property rights, in the Genfare Materials, including but not limited to all patents, trademarks, copyrights, trade secrets, and other property or intellectual property rights. Transit Agency shall acquire no rights therein other than those limited rights of access and use of the Genfare Materials specifically conferred by this Agreement. All rights related to the Genfare Materials that are not expressly granted to Transit Agency under this Agreement are reserved by Genfare.
- 6.2 Transit Agency grants Genfare a limited, non-exclusive license to access and use Transit Agency Data and Genfare Products licensed by Transit Agency to perform its obligations hereunder, including providing the Regional App to SFRTA. Genfare Materials and Products shall not be considered a backup copy of such Transit Agency Data and Transit Agency shall remain responsible for keeping and securing the Transit Agency Data and any backup copies thereof. Notwithstanding the foregoing, Transit Agency grants Genfare a license to retain and utilize usage data and any other aggregated and/or de-identified data (including aggregated and/or de-identified Transit Agency Data) resulting from Transit Agency's and Transit Authority's use of the Genfare Products.
- 6.3 This Agreement does not give a Party any rights, implied or otherwise, to the other Party's data, content, or intellectual property, except as expressly stated in this Agreement.
- 6.4 Genfare agrees that it obtains no right, title or interest from Transit Agency in or to any Third-Party Interfacing Software not provided by Genfare.

7. Warranties; Disclaimers

- 7.1 Genfare hereby warrants that it has the right to provide the Genfare Materials and grant the licenses to Transit Agency in the manner provided in this Agreement and each Party warrants that it has the right and power to enter into this Agreement. Genfare warrants that the Professional Services will be performed in a competent manner by qualified personnel.
- 7.2 Genfare warrants that the goods provided by Genfare and the services performed by Genfare to be in accordance with the specifications in the then-current Documentation. The warranty term shall be as follows: (i) 90 days from the performance of services by Genfare for any services provided by Genfare and (ii) 90 days from the later of (1) the date user acceptance testing is made available for any software required under the Agreement or (2) the date the software is placed into production (such earlier date, the "Software Warranty Start Date"). Any goods, systems, design and work found to be defective within 90 days from the Software Warranty Start Date shall be repaired, or replaced, hereinafter called "corrective work", by Genfare. Genfare's sole obligation under this warranty (which shall be Transit Agency's exclusive remedy) shall be to use reasonable efforts to correct demonstrated material defects in the Genfare Products, and supply Transit Agency with access to a corrected version of such services or goods, or a commercially reasonable workaround as soon as practicable after Transit Agency has notified Genfare of such defects. Genfare's warranty obligations hereunder shall not apply to the extent

the nonconformity results from: (a) modifications to the Genfare Materials by anyone other than Genfare or its contractors, (b) use of the Genfare Materials contrary to the terms of this Agreement or the instructions in any related materials, or (c) the combination of the Genfare Materials with any third party hardware or software not expressly recommended or approved by Genfare. Genfare does not warrant any third party hardware or software utilized to deliver the services, but will pass through any third party vendor's warranties to the extent permitted by the vendor. If Genfare determines that a malfunction or error is due to the hardware or software of Transit Agency or a third party, or out of date or unsupported versions of the software included in the goods or services, Genfare will so inform Transit Agency, and it will be Transit Agency's responsibility to obtain and pay for any repairs, updates or modifications required. Any of the above malfunctions will not relieve Transit Agency of any of its obligations hereunder.

- 7.3** EXCEPT AS SPECIFICALLY SET FORTH ABOVE, THE GENFARE MATERIALS AND PROFESSIONAL SERVICES ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT ALLOWED BY LAW, GENFARE AND ITS LICENSORS DO NOT MAKE ANY EXPRESS OR IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT, OR ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE, AND GENFARE EXPRESSLY DISCLAIMS ANY AND ALL SUCH WARRANTIES. Genfare does not warrant that: (a) operation of any of the Genfare Materials shall be uninterrupted or error free, (b) functions contained in the Genfare Materials shall meet the Transit Agency's requirements.
- 7.4** Transit Agency acknowledges and agrees that Genfare and its licensors are not responsible for: (i) the accuracy or integrity of any data submitted by SFRTA or Transit Agency, (ii) the performance of Transit Agency's or Transit Agency's equipment, (iii) delivery of services or connectivity provided by third parties to Transit Agency (including Transit Agency), even if such third parties were identified by Genfare, or (iv) any downtime, loss or corruption of data that occurs as a result of transmitting or receiving data or viruses via the Internet.
- 7.5** Transit Agency represents and warrants that the use of the API by Genfare as contemplated hereunder in connection with the Transit Agency Software and/or the Third-Party Interfacing Software shall not violate any agreements that govern Transit Agency's use of the Transit Agency Software or Third-Party Interfacing Software. Transit Agency shall defend, indemnify, and hold harmless Genfare and its affiliates, employees, agents, representatives and third-party service providers, for any and all claims, demands, actions, liability, fines, penalties and expenses that may arise from Transit Agency's breach of this Agreement.

8. Infringement

- 8.1** Should the Genfare Materials become, or in Genfare's opinion be likely to become, the subject of a claim of infringement of a patent, trade secret or copyright, Genfare may, in its sole discretion, (a) procure for Transit Agency, at no cost to Transit Agency, the right to continue to use the Genfare Materials, (b) replace or modify the Genfare Materials, at no cost to Transit Agency, to make them non-infringing, provided that substantially the same function is performed by the replacement or modified Genfare Materials, or (c) if in Genfare's judgment the right to continue to use the Genfare Materials cannot be reasonably procured or the Genfare Materials cannot reasonably be replaced or modified, terminate the license to use such Genfare Materials and grant Transit Agency a pro-rated refund of the one-time license fee based upon a straight-line depreciation of such one-time license fee over a five-year period. The above remedy shall be Transit Agency's sole remedy in the event of any claim of infringement of a patent, trade secret or copyright.
- 8.2** Transit Agency shall forfeit all rights under this Section 8 if it alters or modifies the Genfare Materials in any manner.

9. Limitation of Liability

- 9.1 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR SPECIAL, INDIRECT, INCIDENTAL, CONSEQUENTIAL, PUNITIVE, OR EXEMPLARY DAMAGES IN CONNECTION WITH THE GENFARE MATERIALS, THE PROFESSIONAL SERVICES, OR THE PERFORMANCE OR NONPERFORMANCE OF THE GENFARE MATERIALS, REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL GENFARE OR ITS LICENSORS/SERVICE PROVIDERS BE LIABLE TO TRANSIT AGENCY FOR ANY LOSS OF REVENUES, LOSS OF PROFITS, LOSS OF BUSINESS, OR LOSS OF DATA, ARISING OUT OF THE PERFORMANCE OF THE PROFESSIONAL SERVICES OR THE TRANSIT AGENCY'S USE OF, OR INABILITY TO USE, OR THE PERFORMANCE OR NONPERFORMANCE OF, THE GENFARE MATERIALS OR THE GENFARE PRODUCTS.
- 9.2 IN NO EVENT SHALL THE MAXIMUM LIABILITY OF GENFARE AND ITS LICENSORS/SERVICES PROVIDERS UNDER THIS AGREEMENT EXCEED THE FEES PAID BY SFRTA OR TRANSIT AGENCY TO GENFARE (FOR TRANSIT AGENCY'S PARTICIPATION IN THE REGIONAL APP UNDER THIS AGREEMENT) DURING THE TWELVE (12) MONTHS PRECEDING THE DATE ON WHICH THE CLAIM FIRST ACCRUED. ANY ACTION FOR BREACH OF CONTRACT OR OTHERWISE MUST COMMENCE WITHIN ONE YEAR AFTER THE CAUSE OF ACTION ACCRUES.

10. Miscellaneous

- 10.1 Public Announcements. Transit Agency grants Genfare the right to use Transit Agency's name, logo, trademarks and/or trade names for purposes of providing the Regional App to SFRTA and in press releases, product brochures and financial reports indicating that Transit Agency is a customer of Genfare. All other public statements or releases shall require the mutual consent of the parties.
- 10.2 Independent Contractor. The relationship of the parties hereunder is that of independent contractors, and neither Party shall be considered to be a partner, joint venture, employer or employee of the other under this Agreement. This Agreement creates no agency in either Party, and neither Party has any authority whatsoever to bind the other Party in any transaction or make any representations on behalf of the other Party.
- 10.3 Survival. Neither expiration nor termination of this Agreement shall terminate those obligations and rights of the parties pursuant to provisions of this Agreement which by their express terms are intended to survive and such provisions shall survive the expiration or termination of this Agreement. Without limiting the foregoing, the respective rights and obligations of the parties under Sections 2.1.2, 3.3, 5, 6, 7.3, 9 and 10 shall survive the expiration or termination of this Agreement regardless of when such termination becomes effective.
- 10.4 Amendment. No change or modification of this Agreement shall be valid unless in writing and signed by all parties to this Agreement.
- 10.5 Notice. Any notice or demand which is required or provided to be given under this Agreement shall be deemed to have been sufficiently given and received for all purposes when delivered by hand, or nationally recognized overnight courier, or five days after being sent by certified or registered mail, postage and charges prepaid, return receipt requested, to the addresses set forth in the opening paragraph with "Attn: President". Each Party may modify its notice address or "Attn" party by providing written notice in the manner described in this Section 10.5.
- 10.6 Assignment. Neither Party may assign this Agreement, or any of its interest herein, without the prior written consent of the other Party, which consent shall not be unreasonably withheld or delayed. This Agreement shall apply to and bind the successors and permitted assigns of the parties.

- 10.7 Force Majeure. Neither Party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable control, including any act of God or the common enemy or earthquakes, floods, fires, epidemics, riots, failures or delay in transportation or communications. The parties will promptly inform and consult with each other as to any of the above causes which in their judgment may or could be the cause of a delay in the performance of this Agreement.

- 10.8 Waiver. The waiver by either Party of a breach or violation of any provision of this Agreement shall not operate as, or be construed to be, a waiver of any subsequent breach of the same or any other provision hereof.

- 10.9 Severability. In the event any provision of this Agreement is held to be unenforceable for any reason, the unenforceability thereof shall not affect the remainder of this Agreement, which shall remain in full force and effect and enforceable in accordance with its terms.

- 10.10 Entire Agreement. This Agreement supersedes all previous discussions, negotiations, understandings and agreements between the parties with respect to its subject matter, and constitutes the entire Agreement between the parties regarding the subject matter hereof. This Agreement is a collaborative drafting effort and the provisions of the Agreement shall not be construed against a Party as the purported drafter. This Agreement may be executed in one or more counterparts, with signatures delivered by fax or emailed PDF documents, all of which counterparts when taken together shall comprise one instrument.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth above.

GENFARE, LLC

By: _____
 Name: _____
 Title: _____
 Date: _____

TRANSIT AGENCY

By: Palm Beach Board of County Commissioners
 Name: Maria Sachs
 Title: Mayor
 Date: _____

Attachment #2 page 9 of 9

API License and Services Agreement

Schedule A

Genfare Materials and Scope	API that helps provide communication between Transit Agency's Software, Genfare Products and the Regional App. The API will interface with the Third-Party Interfacing Software and Genfare Products thereby allowing Transit Agency's Software to push Transit Agency Data between Transit Agency's Genfare Products, and SFRTA's Genfare Products, including the Regional App.
Term	From the Effective Date until the earlier of: (1) the termination of the Transit Agency Agreement; (2) the termination of the SFRTA Agreement; (3) the date Transit Agency terminates this Agreement; or (4) the date SFRTA terminates Transit Agency's participation in the Regional App or ceases paying the fees for Transit Agency's involvement in the Regional App.
Professional Services Provided	<ul style="list-style-type: none"> • Implementation of the Genfare Materials • Configuration of the Genfare Materials • Consultation regarding Third-Party Interfacing Software to link between Transit Agency Transit Agency Genfare Products and Software, SFRTA Genfare Products and Software, and the Regional App. • Testing and authenticating use of the Genfare Materials. • Post Go-Live support of up to 30 days
Fees	Fees are to be paid by SFRTA per separate agreement with SFRTA
Transit Agency	_____