



LOS ANGELES FIRE DEPARTMENT

RALPH M. TERRAZAS
FIRE CHIEF

February 5, 2019

BOARD OF FIRE COMMISSIONERS FILE NO. 19-011
--

TO: Board of Fire Commissioners

FROM:  Ralph M. Terrazas, Fire Chief

SUBJECT: SOFTWARE DEVELOPMENT AND SUPPORT AGREEMENT WITH
3DI, INCORPORATED

FINAL ACTION:	<input type="checkbox"/> Approved	<input type="checkbox"/> Approved w/Corrections	<input type="checkbox"/> Withdrawn
	<input type="checkbox"/> Denied	<input type="checkbox"/> Received & Filed	<input type="checkbox"/> Other

SUMMARY

In April, 2015, the Mayor and Council approved a joint report by several General Managers (Building and Safety, Engineering, Fire, Planning, Transportation) recommending development of "BuildLA," a unified system for development services, including a common architecture and infrastructure, common business applications, and common support tools (C.F. 15-0316). The common business application platform would streamline and improve the efficiency, transparency, and predictability of the review process.

The Los Angeles Fire Department (LAFD), Fire Prevention Bureau (FPB), has several different computer applications and systems (e.g., Fire Prevention Application; Fire Prevention Operating System; Vegetation Management System) for managing its business processes. These applications and systems were developed in-house several years ago, are not based on a common platform, are not integrated, are very inefficient, and have extremely limited capabilities. For example, data cannot be migrated between systems, resulting in potential inconsistencies for such information as property and ownership. To enable the LAFD to initiate development of FIMS, Council appropriated \$3M from the Development Services Trust Fund on June 12, 2017 (C.F. 15-0316). FIMS would be a component of and interface with BuildLA. The cost of FIMS build-out and expansion would be recovered through a Fire Systems Development and Maintenance Fee. The LAFD is in discussions with the City Attorney on preparation of an ordinance to establish the Fee (C.F. 13-0046).

The Vegetation Management System (VMS) had been used by the FPB, Brush Clearance Unit to manage the approximately 165,000 annual inspections of properties located in the Very High Hazard Severity Zone (VHFHSZ). In 2016, FPB purchased proprietary software from 3Di as a replacement to VMS, in anticipation of the older system no longer being supported. The new system provides enhanced capabilities, and improved the efficiency and accuracy of managing the various brush inspection tasks and processes. In addition to recording and maintaining data on the results of inspections, the application enables administrative tasks, such as sending out notices, creating administrative files, issuing

citations, issuing invoices, managing the brush clearance contractor bid process, and managing the appeals process.

In March 2017, LAFD engaged 3Di for further development of its proprietary software to ensure the various aspects of the brush inspection process were completed efficiently, effectively and accurately. The necessary enhancements have continued for the 2018 and 2019 brush clearance cycles. It is projected that the systems development requirements will be completed by February 2020.

The ongoing support of this highly specialized, proprietary software system is essential to public safety. The system must be continuously available in order for the LAFD to effectively manage the brush inspection program that is vital to maintaining public safety and reducing the risk of fires in these high fire hazard areas. In order to continue to perform these vital services in an uninterrupted manner, the LAFD has determined that there is no suitable alternative available and that 3Di's services must be retained to complete the final stages of development and continue support of the system.

The LAFD has determined that it is not reasonably practicable or in the City's interest to seek or contract with another vendor at this time due to the possibility of a disruption in services causing a significant risk to public safety.

The contract term is for a three year period, from March 1, 2017 through February 28, 2020. Maximum compensation is not to exceed \$1,868,521 which includes software development services, and maintenance, operations and support services.

The City Attorney has reviewed and approved the Agreement as to legal form.

RECOMMENDATIONS

That the Board:

1. Approve and authorize the Fire Chief to execute the attached Agreement with 3Di, Inc. to provide professional software development services and the required hosting and maintenance services for a 36-month term from March 1, 2017 through February 28, 2020.
2. In accordance with ED3, transmit the Agreement to the Mayor's Office for review and approval.

FISCAL IMPACT

There is no impact to the General Fund. Funding for this Agreement is available through an appropriation from the Construction Services Trust Fund.

Board report prepared by Scott Porter, Chief Information Officer, Information and Technology Bureau.

Attachment

AGREEMENT NO. _____

AGREEMENT BETWEEN

THE CITY OF LOS ANGELES

AND

3Di, INCORPORATED

FOR

SOFTWARE DEVELOPMENT AND SUPPORT

TABLE OF CONTENTS

1.0	SECTION 1: GENERAL INFORMATION.....	3
1.1	Project Overview	3
1.2	In Scope Services	3
1.3	Work Location.....	3
1.4	Out of Scope Services	3
1.5	Not a Waiver	4
1.6	Audit Rights	4
1.7	Payment Does Not Imply Acceptance of Work	4
1.8	Work Not In Scope of Services	4
2.0	SECTION 2: REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICE.....	5
2.1	Parties to the Agreement	5
2.2	Representatives of the Parties.....	5
3.0	SECTION 3: SOFTWARE DEVELOPMENT SERVICES	5
3.1	Time of Performance.....	5
3.2	Ratification	6
3.3	Software Development Services	6
3.4	Project Management.....	7
3.5	Development Team	7
3.6	Testing.....	7
3.7	Training	7
3.8	Documentation	7
3.9	Source Code Management.....	8
3.10	Technical Knowledge Transfer	8
3.11	Licensing	8
4.0	SECTION 4: MAINTENANCE, OPERATION & SUPPORT SERVICES (MOPS)	8
4.1	Minor Versions and Updates.....	8
4.2	Major Versions and Releases	8
4.3	System Software Updates and Patch Release Management.....	9
4.4	System Software and Third-Party Software Compatibility.....	9
4.5	System Hosting.....	9
4.6	Routine Operations.....	9
4.7	Performance Management – Service Level Commitments	10

4.8	Help Desk	10
4.9	Service Levels and Defect Resolution Times.....	11
4.10	System Continuity Support	11
5.0	SECTION 5: OPTIONAL SERVICES.....	11
6.0	SECTION 6: DELIVERABLES, PAYMENT TERMS, AND INVOICING	12
6.1	Software Development Services	12
6.2	System Maintenance, Operations and Support Services	13
6.3	Service Credits	13
6.4	Payment Terms.....	14
6.5	Invoicing.....	14
7.0	SECTION 7: NON-EXCLUSIVE AGREEMENT	14
8.0	SECTION 8: CITY CONTRACTING REQUIREMENTS.....	14
8.1	Standard Provisions.....	14
8.2	Disclosure of Border Wall Contracting Ordinance	15
9.0	SECTION 9: ORDER OF PRECEDENT	15
10.0	SECTION 10: ENTIRE AGREEMENT.....	15
11.0	SECTION 11: NUMBER OF PAGES AND ATTACHMENTS	15

AGREEMENT NO. _____

AGREEMENT
BETWEEN THE CITY OF LOS ANGELES
AND
3Di, INCORPORATED

This Agreement (hereinafter referred to as "Agreement") is made and entered into by and between the City of Los Angeles, a municipal corporation (hereinafter referred to as "City"), acting by and through its Los Angeles Fire Department (hereinafter referred to as "Fire Department" or "LAFD"), and 3Di, Incorporated, a California corporation (hereinafter referred to as "Contractor"), with reference to the following:

WHEREAS, the Los Angeles Fire Department (LAFD), Fire Prevention Bureau (FPB) uses several different computer applications and other systems that are not based on a common platform for managing its various business processes; and

WHEREAS, the lack of integration of these systems results in, among other things, numerous inefficient processes and potential errors in identifying important data, such as property and owner information, used by FPB personnel to effectively fulfill its fire prevention responsibilities; and

WHEREAS, development of an integrated Fire Inspection Management System (FIMS) to implement a common business application platform to support all current and future FPB inspection and enforcement activities and processes would address the deficiencies of the older disparate systems; and

WHEREAS, the implementation of a common business application platform is consistent with the objectives of the Citywide BuildLA Project adopted by Mayor and Council in April 2015 (C.F. 15-0316); and

WHEREAS, the Brush Clearance Unit (BCU) performs approximately 165,000 annual inspections of properties located in the Very High Fire Hazard Severity Zone (VHFHSZ); and

WHEREAS, in 2016, the LAFD purchased from Contractor proprietary software to enhance the capabilities, efficiency and accuracy of brush inspection processes in anticipation of the aging in-house systems no longer being supported; and

WHEREAS, the LAFD depends on the use of this highly customized software system to complete these inspections and to perform the required administrative tasks associated with managing these inspection programs such as sending notices, creating administrative files, issuing citations, issuing invoices, managing the brush clearance contractor bidding process, and managing the appeals process; and

WHEREAS, this brush inspection system will be integrated into and interface with FIMS and the Citywide BuildLA application platform; and

WHEREAS, the LAFD depends on the continued availability and ongoing support of this highly specialized, proprietary software in order to manage these inspection programs that are vital to maintaining public safety and reducing the risk of fires in these high fire hazard areas; and

WHEREAS, the LAFD identified the need for further software development services by Contractor to ensure the effective, efficient and accurate completion of the 2017, 2018 and 2019 brush inspection processes; and

WHEREAS, the Contractor is a professional services and software development company with over 20 years of experience developing software of similar size and complexity for other City of Los Angeles (City) departments and other municipalities located throughout the U.S.; and

WHEREAS, pursuant to Charter Section 1022, the City has found that this service can be performed more economically or feasibly by an independent contractor than by City employees; and

WHEREAS, the City has determined the Contractor's services must be retained for an appropriate term and compensation amount to reflect the complexities in developing and implementing the required Fire Prevention Bureau systems; and

WHEREAS, a threat to public safety exists if there is a disruption in services currently provided for by Contractor; and

WHEREAS, it is not reasonably practicable or in the City's interest to contract with another vendor at this time due to the possibility of a disruption in services and significant risk to public safety; and

WHEREAS, the City and Contractor desire to enter into this Agreement for a 36-month term from March 1, 2017 through February 28, 2020 and for a maximum compensation amount not to exceed \$1,868,521.

NOW, THEREFORE, the City and the Contractor agree as follows:

1.0 SECTION 1: GENERAL INFORMATION

1.1 Project Overview

The purpose of this project is to complete development of and provide ongoing support for the brush inspection system that is used by the Los Angeles Fire Department (LAFD or Department) to manage the annual inspection of properties located in the Very High Fire Hazard Severity Zone (VHFHSZ) by the Fire Prevention Bureau's Brush Clearance Unit (BCU). The BCU is responsible for performing more than 165,000 annual inspections of high-hazard properties located throughout the City of Los Angeles, enforcing the fire code and overseeing the various brush clearance programs.

The software and systems developed under this contract are used to assist inspectors in completing their daily activities of inspection and enforcement in an efficient manner. The software and systems are used by professional full-time inspectors, seasonal task force inspectors, civilian staff members responsible for the administration of the program, and the public who use the system to manage their properties and pay for various permits and fines.

1.2 In Scope Services

The project scope includes the following services, described within this statement of work:

- Software Development Services, Section 3.0
- System Maintenance and Operations & Support Services, Section 4.0
- Optional Services, Section 5.0

1.3 Work Location

Contractor's Key Personnel, including the Project Manager and Solution Architect, will be available to work on-site at LAFD facilities as needed in order to attend key meetings and or participate in scheduled project events and/or milestones.

Contractor's development and support personnel will work primarily off-site at Contractor's office locations.

1.4 Out of Scope Services

Unless mutually agreed to by both parties by way of an amendment to this Agreement, any other services not specifically listed in this Agreement are considered out of scope. The City shall not be responsible to pay Contractor for any out of scope work not described in this Agreement, and not agreed to by the parties in writing via an amendment to this Agreement.

1.5 Not a Waiver

Contractor acknowledges and agrees that nothing contained in this Agreement is, represents, or is intended to be construed as: a release, compromise, settlement, or waiver by City of any cause of action that City may have against Contractor. City reserves its rights in full, including, but not limited to, the right to bring any claim, cause of action, or request for reimbursement against Contractor in relation to this Agreement and other transactions between City and Contractor.

1.6 Audit Rights

In addition to those rights available to City pursuant to PSC-16, Retention of Records, Audit and Reports, Contractor shall provide City, or City's duly authorized representatives, access for the purposes of audit and investigation, to any and all books, documents, papers, records, deliverables, and software documentation pertaining to any past, current, or future (i) transactions between City and Contractor, (ii) work requested to be performed of Contractor, or (iii) demands for payment by Contractor.

1.7 Payment Does Not Imply Acceptance of Work

The granting of any payment by City, or the receipt thereof by Contractor, in no way lessens the liability of Contractor to replace unsatisfactory work, equipment, or materials although the unsatisfactory character of this work, equipment or materials may not have been apparent or detected at the time the payment was made. Materials, equipment, components, or workmanship that do not conform to the requirements of this Agreement may be rejected by City and upon rejection must be replaced by Contractor without delay.

1.8 Work Not In Scope of Services

Contractor shall immediately notify the City Attorney in writing of any work that is requested to be performed that is outside of the original scope of work covered by this Agreement, and Contractor's Statement of Work, specified in Section 3. If it is determined that the request is outside of the scope of work, Contractor shall not perform the requested work unless and until (i) the City's designated contract administrator approves the request in writing and authorizes the use of any contingency funds for the work, and (ii) an amendment providing for an adjustment in Contractor's compensation, and the scope of work, is approved and executed by both parties.

2.0 SECTION 2: REPRESENTATIVES OF THE PARTIES AND SERVICE OF NOTICE

2.1 Parties to the Agreement

- A. City – The City of Los Angeles, a municipal corporation, chartered by the State of California, acting by and through the Los Angeles Fire Department, having its principal office at 200 North Main Street, 18th Floor, Los Angeles, CA, 90012
- B. Contractor – 3Di, Inc. a California corporation, having its principal office at 3 Pointe Drive, Suite 307, Brea, CA, 92821.

2.2 Representatives of the Parties

The representatives of the respective parties authorized to administer this Agreement, and to whom formal notices, demands, and communications shall be given are as follows:

- A. The representative of the City shall be, unless otherwise stated in this Agreement:

Scott Porter, Chief Information Officer
Los Angeles Fire Department
200 N. Main St., Room 1660
Los Angeles, CA 90012

- B. The Contractor's representative is, unless otherwise stated in the Agreement:

Mihir Desai, Vice President
3Di, Inc.
3 Pointe Drive, Suite 307
Brea, CA 92821

- C. Communication Between Parties: Formal notices, demands, and communication required hereunder by either party shall be made in writing and may be effected by personal delivery or by registered or certified mail, postage prepaid, return receipt requested and shall be deemed communicated as of the date of mailing.

3.0 SECTION 3: SOFTWARE DEVELOPMENT SERVICES

3.1 Time of Performance

The term of the Agreement shall commence as of the date of execution by all parties, and shall end no later than February 28, 2020, subject to the termination provisions herein.

3.2 Ratification

Since March 1, 2017, the Contractor has delivered and the LAFD has accepted the following system software components:

Milestone	Description
P01	2017 Inventory Update
P02	Opt Out
P03	Initial Inspection
P04	First Notice
P05	Reinspection, 2 nd notice
P06	Package, Work Completion
P07	Executive Dashboard
P08	Contractor portal and enhancements
P09	Inventory update (2018)
P10	Appeals
P15	Dev Services Mobile App Dev
P16	Clearance contract closure & payments
P17	BF, BN and BC Invoicing
P18	Owner Address Update
P19	FMS interface for billing (2018)

To the extent that such services enumerated above were performed in accordance with the terms and conditions of this Agreement, the City hereby acknowledges the services stated above performed by Contractor since March 1 2017, and ratifies Contractor's performance of said services.

3.3 Software Development Services

The Contractor will develop new system capabilities using the existing software framework. New required system capabilities are defined by the LAFD and Contractor's project team and managed in a Product Backlog. The current product backlog includes the following items:

Item	Description
01	Electronic Sign-Off
02	BCU Reports & Dashboards
03	Accounting Reports & Dashboards
04	VMS2 & 9A data migration
05	Manage inspections via map book
06	Integration with LAFD Active Directory
07	Integration with LAFD PowerBI
08	Integration with LAFD GIS
09	Development Services mobile workforce enhancements
10	Development Services workflow enhancements

The Product Backlog will be maintained in Jira and reviewed regularly by the Contractor and LAFD in order to prioritize and plan all future software development activities. The Contractor will utilize an agile scrum framework to manage the development work and deliver new system capabilities in an iterative and incremental manner. Developed items will be delivered, tested and accepted by the LAFD project team before being moved into a production system.

3.4 Project Management

The Contractor will provide a dedicated project manager who will act as the Contractor's single point of contact for all communications related to the day-to-day delivery of services. The Project Manager will be available to work on-site as-needed for key project tasks and meetings.

3.5 Development Team

The Contractor will provide a team of software development professionals that possess the required skills and experience necessary to perform the required development tasks. The Contractor's capacity for completing new development tasks will be determined by the Contractor's team size. The team size may vary from time to time based on the needs and priorities of the Department.

3.6 Testing

The Contractor will provide adequate testing of all developed software including integration, regression, readiness, and performance. The Contractor will plan, schedule and oversee user acceptance testing (UAT). The Contractor will provide an environment that includes any required hardware or software, that is suitable for testing new features (unit testing), full system integration testing and periodic system performance testing without dependency on or disruption to the production or training environment(s).

3.7 Training

The Contractor will provide training to LAFD staff members that is sufficient for those members to perform the required system functions and to develop and deliver end-user training. The Contractor will provide a training environment, including any required hardware or software that is suitable for training LAFD members on the use of system features as they will be in production without dependency on or disruption to the production or testing environment(s).

3.8 Documentation

The Contractor will create and deliver all required system documentation including, but not limited to: feature descriptions and wireframes as part of each user story; required system administration documentation such as system diagrams, data dictionaries and system administration guides; end-user guides and training materials.

3.9 Source Code Management

The Contractor will use the Git (<https://git-scm.com/>) source code version control system to manage all system source code. The Contractor will establish a GitHub source code repository and provide the City with access to and training on its use. The City will have full access and administrative rights to the source code repository, including the ability to review and audit any of the source code at any time.

3.10 Technical Knowledge Transfer

The Contractor will provide an in-depth solution architecture and technical review of the system as-built to-date. The review will provide a detailed technical description and discussion of the overall solution architecture, including, but not limited to: solution diagrams that depict the overall solution architecture and environments; description and discussion of the system source code, including development environment, tools and source code structure; description and discussion of the database tools, data structure and environments; description and discussion of third-party tools and integrations; description and discussion of the Microsoft Azure cloud environment(s); and description and discussion of the Microsoft PowerBI environment.

The Contractor will provide a bi-annual (two times per year) solution architecture and technical review and planning session to update the City on any changes and/or planned changes to the solution architecture and develop and deliver any changes or updates to system documentation.

3.11 Licensing

The Contractor will ensure that all system software is properly licensed at no additional cost to the City, including, but not limited to, any required third-party licenses. The Contractor will ensure that all required third-party licenses are maintained within fully supported versions and that the custom developed system software continues to function on any new versions of required third-party software (e.g. server, desktop and mobile operating system, browser, database, application servers, etc.) as they become available.

4.0 SECTION 4: MAINTENANCE, OPERATION & SUPPORT SERVICES (MOPS)

4.1 Minor Versions and Updates

The Contractor will perform all required minor system software updates as-needed. Minor versions and updates include, but are not limited to, minor changes to the user interface (UI) or minor feature changes. Minor changes will be made at any time they are required and any service outages and/or disruptions to service will be coordinated with and approved by the City in advance and, whenever possible, performed during non-business hours to ensure minimal disruption to the LAFD operations.

4.2 Major Versions and Releases

The Contractor will perform all required major version upgrades as-needed. Major version updates include, but are not limited to, major changes to the underlying operating system(s), database or other infrastructure; user interface (UI); or major feature releases. Major changes will be made at any time they are required and/or on a regularly scheduled

interval. Any service outages and/or disruptions to service related to a major change will be coordinated with and approved by the City in advance and, whenever possible, performed during non-business hours to ensure minimal disruption to the LAFD operations.

4.3 System Software Updates and Patch Release Management

The Contractor will perform all required software patch and release management as-needed. System software updates and patch releases will be made at any time they are required and/or on a regularly scheduled interval. Any service outages and/or disruptions to service will be coordinated with and approved by the City in advance and, whenever possible, performed during non-business hours to ensure minimal disruption to the LAFD operations.

4.4 System Software and Third-Party Software Compatibility

The Contractor will ensure that all system software, including both custom developed and third-party licensed software is fully compatible so as not to disrupt system features or performance and will ensure that all software is maintained within a version that is fully supported by the software manufacturer / licensor.

4.5 System Hosting

The Contractor will host the system in the Microsoft Azure Commercial or Government cloud environment. The Contractor will be responsible for all configuration, monitoring, management and fees related to the hosting of the system, including managing the required hosting agreements with Microsoft. Any changes to the hosting environment must be approved by the Department. The Department will provide network access to/from LAFD networks and systems as needed.

In the event the Department assumes support responsibility or otherwise terminates this Agreement, the Contractor will assist the City in moving the system hosting from the Contractor's Azure tenant to the City's Azure tenant without cost or delay.

4.6 Routine Operations

The Contractor will perform all required day-to-day system operations necessary to ensure that the system continues to operate and perform as expected, including, but not limited to performing the following functions on an ongoing and regular basis:

- System monitoring and notification of the Department of errors, disruptions or downtime
- System tuning to ensure optimal system performance
- System monitoring and notification of unauthorized use, intrusion or data compromise
- System recovery from errors and/or downtime
- Preparation of monthly operations status reporting providing details of overall system performance and all system interruptions, remediation activities and completed/planned maintenance activities

- System backup and assurance of full recovery of system and system data in the event of a system failure

The Department is responsible for end-user device access to the Internet.

4.7 Performance Management – Service Level Commitments

System Responsiveness

The Contractor will ensure that the system is responsive to user input so as not to cause a perceivable delay to the user performing routine business tasks using standard system functions. The Contractor will ensure that the system provides the user with clear feedback when the system is not performing as expected.

System Availability

The Contractor will ensure that the system is available and fully operational seven days per week from 0600 hours to 1800 hours Pacific Standard / Daylight Time (operational period) at least 99.9% of the time (the Service Level Commitment - SLC).

"Uptime" means the percentage of the total time during any given day that the Services are available.

"Daily Operational Period" means 12 hours or 720 minutes per day
Daily Uptime percentage is measured by the following calculation:

$$100 - (\text{Outage Minutes} \div \text{Daily Operational Period}) * 100$$

Outage minutes: total number of minutes the system was unavailable during a one-day operational period.

4.8 Help Desk

The Contractor will provide second-level help desk services and will not receive service calls directly from end-users. The Department will report issues to the Contractor via phone, email or the Contractor-provided issue management system. The Contractor will record all service calls in an issue management and tracking system, and will respond according to the service levels described in Section 4.9 below.

The Contractor will provide the Department with full access and visibility to the issue management system, including the latest status and progress on all reported issues.

The Department will report issues with as much supporting detail and information as is available to describe the nature, scope and impact of the issue, as well as any attempts to resolve and / or reproduce the issue. The Contractor will assess the issue based on the information provided and will follow up with the Department regarding any additional information that is required.

4.9 Service Levels and Defect Resolution Times

Type	Description	Response	Resolution
Priority 1	Urgent-Blocker. Problems that result in the Production system being not available or one or more critical system functions not working as accepted. Unable to perform core system functions and no acceptable workaround is available.	< 30 minutes	< 8 hours
Priority 2	Critical – High. Problems that result in the system operating in a degraded or unexpected mode including: serious, persistent system-wide performance issues; serious malfunctions of system functions not working as accepted.	< 4 hours	< 24 hours
Priority 3	Important - Nominal. Problems that result in the system not performing as accepted, but minor in scope and nature and not significantly impacting operations. These include intermittent performance issues, intermittent and/or isolated malfunctions of a specific system function; problems that can be isolated to a single user and/or device.	1 day	1 week

Response shall mean time from initial notification to assignment and verbal response from Contractor support personnel.

Resolution shall mean time to system restoration or identification of an acceptable resolution and estimated time to complete.

4.10 System Continuity Support

The Contractor will provide a fixed level of support service time to make minor changes, including features and enhancements to the system as-needed to account for changing business practices and new needs. These support services will be limited to no more than 24 hours per month. Individual tasks will be limited in complexity to those that can be completed in 24 hours or less. Tasks or other changes that require more than 24 hours of development in a given month are considered enhancements and out of scope of this maintenance agreement. The 24 hours of support services are not accumulated and reset at the beginning of each month

5.0 SECTION 5: OPTIONAL SERVICES

From time to time, additional services may be required that are not included within the scope of this Agreement. Any such services that may be needed in the future will be addressed with a separate scope of work, cost and schedule, and may be included in this Agreement by amendment.

6.0 SECTION 6: DELIVERABLES, PAYMENT TERMS, AND INVOICING

6.1 Software Development Services

- 6.1.1 Payment will be made to the Contractor upon satisfactory performance, delivery and acceptance by the Department for the following software development services.

Milestone	Description	Payment Due
P01	Inventory update (2017)	\$20,152
P02	Opt Out	\$31,144
P03	Initial Inspection	\$80,608
P04	First Notice	\$23,816
P05	Reinspection, 2 nd notice	\$40,304
P06	Package, Work Completion	\$56,792
P07	Executive Dashboard	\$18,320
P08	Contractor portal and enhancements	\$174,040
P09	Inventory update (2018)	\$21,984
P10	Appeals	\$30,350
P15	Dev Services Mobile App Dev	\$43,108
P16	Clearance contracts, closure & payments	\$358,600
P17	BF, BN and BC Invoicing	\$84,367
P18	Owner Address Update	\$84,367
P19	FMS interface for billing (2018)	\$84,367
Total		\$1,152,319

- 6.1.2 The Contractor will provide up to six months of software development services from January 1, 2019 through June 30, 2019. Each month the Contractor and the Department will review the remaining work and may adjust the end date for this development team to be sooner, but not later than June 30, 2019, depending on anticipated workload, unless mutually agreed to by amendment to this Agreement.

Item	Description	Level	Cost Per Month
01	Project Manager, on-site	Full Time	\$26,000
02	Business Analyst, on-site	Full Time	\$17,333
03	Development team, off-site	Full Time	\$27,000
05	Development team, off-site	Part Time	\$14,034
Total Monthly Development Cost			\$84,367
Duration not to exceed			6 months
Total Not to Exceed Development Cost			\$506,202

6.2 System Maintenance, Operations and Support Services

The Contractor will provide the ongoing maintenance, operations and support services (MOPS) described in Section 4.0 for all delivered software for the following fixed fee per month, starting on January 1, 2019:

Item	Description	Cost
01	Total Cost of Maintenance, Operations & Support	\$15,000/month

6.3 Service Credits

The Contractor will provide the City with a service credit in the form of a percentage discount off of the monthly service fee when certain performance levels are not met according to the following table:

Item	Description	% Discount
01	System uptime* below 99.9%, above 99%	20%
02	System uptime below 99%, above 95%	50%
03	System uptime below 95%	100%
04	Any Priority 1 defects not addressed ⁺	20%
05	More than 5 Priority 2 or 3 defects not addressed	20%

* System uptime during is defined in Section 4.7 above.

+ Defects as addressed according to the Service Level and Defect Resolution defined in Section 4.9 above.

System Uptime service credits will be calculated once per month at the end of every month and applied to the monthly invoice. Service credit detail listing the date and duration of the outage; uptime percentage calculation and total service credit shall be included with each monthly invoice.

Service credits will be calculated for any day in the month where there was an outage lasting more than three minutes and applied to a pro-rated daily rate of the monthly service fee. For example:

January 2019 has 31 days, the pro-rated, daily rate \$484, ($\$15,000 \div 31 = \484)

On January 2 there is a 32-minute outage, the service credit calculation would be as follows:

$$100 - ((32 \div 720) * 100) = 95.6 \% \text{ uptime} = \$242 (\$484 * 50\%) \text{ service credit}$$

If Total Monthly System Uptime is less than 95% for three (3) or more months in any twelve (12)-month period, then the City may terminate the agreement and receive full payment for any and all Services Fee Credits already earned, in addition to a refund of any prepaid Services fees prorated for the remainder of the Term.

6.4 Payment Terms

- 6.4.1 The City will pay the Contractor for satisfactory services rendered pursuant to the services performed under Sections 6.1, 6.2 and 6.3 of this Agreement. The maximum compensation is not to exceed One Million-Eight Hundred Sixty-Eight Thousand Five Hundred Twenty-One Dollars (\$1,868,521) for the term of this Agreement.

6.5 Invoicing

- 6.5.1 The Contractor shall submit their invoices to:

Scott Porter, Chief Information Officer
Los Angeles Fire Department
200 North Main Street, Room 1660
Los Angeles, CA 90012

The invoice must contain the following:

- a. Name and address of company or firm;
- b. Name and address of the contracting department;
- c. Date of the invoice and period covered;
- d. Reference to contract number;
- e. Description of the completed task and amount due for the task;
- f. Copy of the invoices and payments to third parties, if any;
- g. Payment terms, total due, and due date;
- h. Certification by a duly authorized officer of the Contractor;
- i. Discounts and terms (if applicable);
- j. Remittance address (if different from company address); and
- k. Percentage of maximum allowable compensation against which services have been billed to date, and percentage of maximum allowable compensation remaining.

7.0 SECTION 7: NON-EXCLUSIVE AGREEMENT

City and Contractor understand and agree that this is a non-exclusive Agreement to provide services to the City and the LAFD and that the City or the LAFD reserve the right to enter into an agreement with other contractors to provide similar services during the term of this Agreement.

8.0 SECTION 8: CITY CONTRACTING REQUIREMENTS

8.1 Standard Provisions

By entering into this Agreement with the City, the Contractor agrees to abide by the Standard Provisions for the City Contracts (Rev. 10/17)[v.3], attached hereto and incorporated herein as Exhibit A.

8.2 Disclosure of Border Wall Contracting Ordinance

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Agreement is subject to the Disclosure of Border Wall Contracting Ordinance, Section 10.50 of the Los Angeles Administrative Code, as may be amended from time to time. Contractor certifies that it has complied with the applicable provisions of this Ordinance. Failure to fully and accurately complete the affidavit may result in termination of this Agreement.

9.0 SECTION 9: ORDER OF PRECEDENT

This Agreement, and any exhibits, attachments or documents incorporated herein by inclusion or by reference constitutes the complete and entire Agreement between the City and the Contractor. In the event of any inconsistency between the body of this Agreement and the Exhibit, the order of precedence will be as follows:

- 1) This Agreement between the City of Los Angeles and 3Di, Inc.
- 2) Exhibit A – Standard Provisions for City Contracts (Rev. 10/17)[v.3]

10.0 SECTION 10: ENTIRE AGREEMENT

This Agreement contains the full and complete Agreement between the parties. No verbal agreement or conversation with any officer or employee of either party will affect or modify any of the terms and conditions of this Agreement.

11.0 SECTION 11: NUMBER OF PAGES AND ATTACHMENTS

This Agreement is executed in three (3) triplicate originals, each of which is deemed to be an original. This Agreement includes sixteen (16) pages and one (1) Exhibit, which constitute the entire understanding and agreement of the parties.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized representatives.

THE CITY OF LOS ANGELES

3Di, Inc., a California Corporation

By: _____
Ralph M. Terrazas
Fire Chief

By*: _____
Mihir Desai
Vice President

Date: _____

Date: _____

APPROVED AS TO FORM:
MICHAEL N. FEUER, City Attorney

By**: _____

Name: _____

Title: _____

By: _____
Kimberly D. Miera
Deputy City Attorney

Date: _____

Date: _____

ATTEST:
HOLLY L. WOLCOTT, City Clerk

By: _____
Deputy City Clerk

Date: _____

NOTE: If Contractor is a corporation, two signatures are required.

* The signature of President, Chairman of the Board, or Vice President is required here; and

** an additional signature of Secretary, Assistant Secretary, Chief Financial Officer, or Assistant Treasurer is also required for the Corporation.

City Business Tax Registration Certificate Number: _____

Agreement Number: _____

EXHIBIT A

STANDARD PROVISIONS FOR CITY CONTRACTS (REV 10/17) [v3]

STANDARD PROVISIONS FOR CITY CONTRACTS

TABLE OF CONTENTS

PSC-1	<u>Construction of Provisions and Titles Herein</u>	1
PSC-2	<u>Applicable Law, Interpretation and Enforcement</u>	1
PSC-3	<u>Time of Effectiveness</u>	1
PSC-4	<u>Integrated Contract</u>	2
PSC-5	<u>Amendment</u>	2
PSC-6	<u>Excusable Delays</u>	2
PSC-7	<u>Waiver</u>	2
PSC-8	<u>Suspension</u>	3
PSC-9	<u>Termination</u>	3
PSC-10	<u>Independent Contractor</u>	5
PSC-11	<u>Contractor's Personnel</u>	5
PSC-12	<u>Assignment and Delegation</u>	6
PSC-13	<u>Permits</u>	6
PSC-14	<u>Claims for Labor and Materials</u>	6
PSC-15	<u>Current Los Angeles City Business Tax Registration Certificate Required</u>	6
PSC-16	<u>Retention of Records, Audit and Reports</u>	6
PSC-17	<u>Bonds</u>	7
PSC-18	<u>Indemnification</u>	7
PSC-19	<u>Intellectual Property Indemnification</u>	7
PSC-20	<u>Intellectual Property Warranty</u>	8
PSC-21	<u>Ownership and License</u>	8
PSC-22	<u>Data Protection</u>	9

TABLE OF CONTENTS (Continued)

PSC-23	<u>Insurance</u>	9
PSC-24	<u>Best Terms</u>	9
PSC-25	<u>Warranty and Responsibility of Contractor</u>	10
PSC-26	<u>Mandatory Provisions Pertaining to Non-Discrimination in Employment</u>	10
PSC-27	<u>Child Support Assignment Orders</u>	10
PSC-28	<u>Living Wage Ordinance</u>	11
PSC-29	<u>Service Contractor Worker Retention Ordinance</u>	11
PSC-30	<u>Access and Accommodations</u>	11
PSC-31	<u>Contractor Responsibility Ordinance</u>	12
PSC-32	<u>Business Inclusion Program</u>	12
PSC-33	<u>Slavery Disclosure Ordinance</u>	12
PSC-34	<u>First Source Hiring Ordinance</u>	12
PSC-35	<u>Local Business Preference Ordinance</u>	12
PSC-36	<u>Iran Contracting Act</u>	12
PSC-37	<u>Restrictions on Campaign Contributions in City Elections</u>	12
PSC-38	<u>Contractors' Use of Criminal History for Consideration of Employment Applications</u>	13
PSC-39	<u>Limitation of City's Obligation to Make Payment to Contractor</u>	13
PSC-40	<u>Compliance with Identity Theft Laws and Payment Card Data Security Standards</u>	14
PSC-41	<u>Compliance with California Public Resources Code Section 5164</u>	14
PSC-42	<u>Possessory Interests Tax</u>	14
PSC-43	<u>Confidentiality</u>	15
Exhibit 1	<u>Insurance Contractual Requirements</u>	16

STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

All titles, subtitles, or headings in this Contract have been inserted for convenience, and shall not be deemed to affect the meaning or construction of any of the terms or provisions of this Contract. The language of this Contract shall be construed according to its fair meaning and not strictly for or against **CITY** or **CONTRACTOR**. The word "**CONTRACTOR**" includes the party or parties identified in this Contract. The singular shall include the plural and if there is more than one **CONTRACTOR**, unless expressly stated otherwise, their obligations and liabilities shall be joint and several. Use of the feminine, masculine, or neuter genders shall be deemed to include the genders not used.

PSC-2. Applicable Law, Interpretation and Enforcement

Each party's performance shall comply with all applicable laws of the United States of America, the State of California, and **CITY**, including but not limited to, laws regarding health and safety, labor and employment, wage and hours and licensing. This Contract shall be enforced and interpreted under the laws of the State of California without regard to conflict of law principles. **CONTRACTOR** shall comply with new, amended, or revised laws, regulations, or procedures that apply to the performance of this Contract with no additional compensation paid to **CONTRACTOR**.

In any action arising out of this Contract, **CONTRACTOR** consents to personal jurisdiction, and agrees to bring all such actions, exclusively in state or federal courts located in Los Angeles County, California.

If any part, term or provision of this Contract is held void, illegal, unenforceable, or in conflict with any federal, state or local law or regulation, the validity of the remaining parts, terms or provisions of this Contract shall not be affected.

PSC-3. Time of Effectiveness

Unless otherwise provided, this Contract shall take effect when all of the following events have occurred:

- A. This Contract has been signed on behalf of **CONTRACTOR** by the person or persons authorized to bind **CONTRACTOR**;
- B. This Contract has been approved by the City Council or by the board, officer or employee authorized to give such approval;
- C. The Office of the City Attorney has indicated in writing its approval of this Contract as to form; and
- D. This Contract has been signed on behalf of **CITY** by the person designated by the City Council, or by the board, officer or employee authorized to enter into this Contract.

PSC-4. Integrated Contract

This Contract sets forth all of the rights and duties of the parties with respect to the subject matter of this Contract, and replaces any and all previous Contracts or understandings, whether written or oral, relating thereto. This Contract may be amended only as provided for in the provisions of PSC-5 hereof.

PSC-5. Amendment

All amendments to this Contract shall be in writing and signed and approved pursuant to the provisions of PSC-3.

PSC-6. Excusable Delays

Neither party shall be liable for its delay or failure to perform any obligation under and in accordance with this Contract, if the delay or failure arises out of fires, floods, earthquakes, epidemics, quarantine restrictions, other natural occurrences, strikes, lockouts (other than a lockout by the party or any of the party's Subcontractors), freight embargoes, terrorist acts, insurrections or other civil disturbances, or other similar events to those described above, but in each case the delay or failure to perform must be beyond the control and without any fault or negligence of the party delayed or failing to perform (these events are referred to in this provision as "Force Majeure Events").

Notwithstanding the foregoing, a delay or failure to perform by a Subcontractor of **CONTRACTOR** shall not constitute a Force Majeure Event, unless the delay or failure arises out of causes beyond the control of both **CONTRACTOR** and Subcontractor, and without any fault or negligence of either of them. In such case, **CONTRACTOR** shall not be liable for the delay or failure to perform, unless the goods or services to be furnished by the Subcontractor were obtainable from other sources in sufficient time to permit **CONTRACTOR** to perform timely. As used in this Contract, the term "Subcontractor" means a subcontractor at any tier.

In the event **CONTRACTOR'S** delay or failure to perform arises out of a Force Majeure Event, **CONTRACTOR** agrees to use commercially reasonable best efforts to obtain the goods or services from other sources, and to otherwise mitigate the damages and reduce the delay caused by the Force Majeure Event.

PSC-7. Waiver

A waiver of a default of any part, term or provision of this Contract shall not be construed as a waiver of any succeeding default or as a waiver of the part, term or provision itself. A party's performance after the other party's default shall not be construed as a waiver of that default.

PSC-8. Suspension

At **CITY'S** sole discretion, **CITY** may suspend any or all services provided under this Contract by providing **CONTRACTOR** with written notice of suspension. Upon receipt of the notice of suspension, **CONTRACTOR** shall immediately cease the services suspended and shall not incur any additional obligations, costs or expenses to **CITY** until **CITY** gives written notice to recommence the services.

PSC-9. Termination

A. Termination for Convenience

CITY may terminate this Contract for **CITY'S** convenience at any time by providing **CONTRACTOR** thirty days written notice. Upon receipt of the notice of termination, **CONTRACTOR** shall immediately take action not to incur any additional obligations, costs or expenses, except as may be necessary to terminate its activities. **CITY** shall pay **CONTRACTOR** its reasonable and allowable costs through the effective date of termination and those reasonable and necessary costs incurred by **CONTRACTOR** to effect the termination. Thereafter, **CONTRACTOR** shall have no further claims against **CITY** under this Contract. All finished and unfinished documents and materials procured for or produced under this Contract, including all intellectual property rights **CITY** is entitled to, shall become **CITY** property upon the date of the termination. **CONTRACTOR** agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

B. Termination for Breach of Contract

1. Except as provided in PSC-6, if **CONTRACTOR** fails to perform any of the provisions of this Contract or so fails to make progress as to endanger timely performance of this Contract, **CITY** may give **CONTRACTOR** written notice of the default. **CITY'S** default notice will indicate whether the default may be cured and the time period to cure the default to the sole satisfaction of **CITY**. Additionally, **CITY'S** default notice may offer **CONTRACTOR** an opportunity to provide **CITY** with a plan to cure the default, which shall be submitted to **CITY** within the time period allowed by **CITY**. At **CITY'S** sole discretion, **CITY** may accept or reject **CONTRACTOR'S** plan. If the default cannot be cured or if **CONTRACTOR** fails to cure within the period allowed by **CITY**, then **CITY** may terminate this Contract due to **CONTRACTOR'S** breach of this Contract.
2. If the default under this Contract is due to **CONTRACTOR'S** failure to maintain the insurance required under this Contract, **CONTRACTOR** shall immediately: (1) suspend performance of any services under this Contract for which insurance was required; and (2) notify its employees and Subcontractors of the loss of insurance coverage and Contractor's obligation to suspend performance of

services. **CONTRACTOR** shall not recommence performance until **CONTRACTOR** is fully insured and in compliance with **CITY'S** requirements.

3. If a federal or state proceeding for relief of debtors is undertaken by or against **CONTRACTOR**, or if **CONTRACTOR** makes an assignment for the benefit of creditors, then **CITY** may immediately terminate this Contract.
4. If **CONTRACTOR** engages in any dishonest conduct related to the performance or administration of this Contract or violates **CITY'S** laws, regulations or policies relating to lobbying, then **CITY** may immediately terminate this Contract.
5. Acts of Moral Turpitude
 - a. **CONTRACTOR** shall immediately notify **CITY** if **CONTRACTOR** or any Key Person, as defined below, is charged with, indicted for, convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, any act which constitutes an offense involving moral turpitude under federal, state, or local laws ("Act of Moral Turpitude").
 - b. If **CONTRACTOR** or a Key Person is convicted of, pleads nolo contendere to, or forfeits bail or fails to appear in court for a hearing related to, an Act of Moral Turpitude, **CITY** may immediately terminate this Contract.
 - c. If **CONTRACTOR** or a Key Person is charged with or indicted for an Act of Moral Turpitude, **CITY** may terminate this Contract after providing **CONTRACTOR** an opportunity to present evidence of **CONTRACTOR'S** ability to perform under the terms of this Contract.
 - d. Acts of Moral Turpitude include, but are not limited to: violent felonies as defined by Penal Code Section 667.5, crimes involving weapons, crimes resulting in serious bodily injury or death, serious felonies as defined by Penal Code Section 1192.7, and those crimes referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2); in addition to and including acts of murder, rape, sexual assault, robbery, kidnapping, human trafficking, pimping, voluntary manslaughter, aggravated assault, assault on a peace officer, mayhem, fraud, domestic abuse, elderly abuse, and child abuse, regardless of whether such acts are punishable by felony or misdemeanor conviction.

- e. For the purposes of this provision, a Key Person is a principal, officer, or employee assigned to this Contract, or owner (directly or indirectly, through one or more intermediaries) of ten percent or more of the voting power or equity interests of **CONTRACTOR**.
- 6. In the event **CITY** terminates this Contract as provided in this section, **CITY** may procure, upon such terms and in the manner as **CITY** may deem appropriate, services similar in scope and level of effort to those so terminated, and **CONTRACTOR** shall be liable to **CITY** for all of its costs and damages, including, but not limited to, any excess costs for such services.
- 7. If, after notice of termination of this Contract under the provisions of this section, it is determined for any reason that **CONTRACTOR** was not in default under the provisions of this section, or that the default was excusable under the terms of this Contract, the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to PSC-9(A) Termination for Convenience.
- 8. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract.
- C. In the event that this Contract is terminated, **CONTRACTOR** shall immediately notify all employees and Subcontractors, and shall notify in writing all other parties contracted with under the terms of this Contract within five working days of the termination.

PSC-10. Independent Contractor

CONTRACTOR is an independent contractor and not an agent or employee of **CITY**. **CONTRACTOR** shall not represent or otherwise hold out itself or any of its directors, officers, partners, employees, or agents to be an agent or employee of **CITY**.

PSC-11. Contractor's Personnel

Unless otherwise approved by **CITY**, **CONTRACTOR** shall use its own employees to perform the services described in this Contract. **CITY** has the right to review and approve any personnel who are assigned to work under this Contract. **CONTRACTOR** shall remove personnel from performing work under this Contract if requested to do so by **CITY**.

CONTRACTOR shall not use Subcontractors to assist in performance of this Contract without the prior written approval of **CITY**. If **CITY** permits the use of Subcontractors, **CONTRACTOR** shall remain responsible for performing all aspects of this Contract and paying all Subcontractors. **CITY** has the right to approve **CONTRACTOR'S** Subcontractors, and **CITY** reserves the right to request replacement of any

Subcontractor. **CITY** does not have any obligation to pay **CONTRACTOR'S** Subcontractors, and nothing herein creates any privity of contract between **CITY** and any Subcontractor.

PSC-12. Assignment and Delegation

CONTRACTOR may not, unless it has first obtained the written permission of **CITY**:

- A. Assign or otherwise alienate any of its rights under this Contract, including the right to payment; or
- B. Delegate, subcontract, or otherwise transfer any of its duties under this Contract.

PSC-13. Permits

CONTRACTOR and its directors, officers, partners, agents, employees, and Subcontractors, shall obtain and maintain all licenses, permits, certifications and other documents necessary for **CONTRACTOR'S** performance of this Contract. **CONTRACTOR** shall immediately notify **CITY** of any suspension, termination, lapses, non-renewals, or restrictions of licenses, permits, certificates, or other documents that relate to **CONTRACTOR'S** performance of this Contract.

PSC-14. Claims for Labor and Materials

CONTRACTOR shall promptly pay when due all amounts owed for labor and materials furnished in the performance of this Contract so as to prevent any lien or other claim under any provision of law from arising against any **CITY** property (including reports, documents, and other tangible or intangible matter produced by **CONTRACTOR** hereunder), and shall pay all amounts due under the Unemployment Insurance Act or any other applicable law with respect to labor used to perform under this Contract.

PSC-15. Current Los Angeles City Business Tax Registration Certificate Required

For the duration of this Contract, **CONTRACTOR** shall maintain valid Business Tax Registration Certificate(s) as required by **CITY'S** Business Tax Ordinance, Section 21.00 *et seq.* of the Los Angeles Municipal Code ("LAMC"), and shall not allow the Certificate to lapse or be revoked or suspended.

PSC-16. Retention of Records, Audit and Reports

CONTRACTOR shall maintain all records, including records of financial transactions, pertaining to the performance of this Contract, in their original form or as otherwise approved by **CITY**. These records shall be retained for a period of no less than three years from the later of the following: (1) final payment made by **CITY**, (2) the expiration of this Contract or (3) termination of this Contract. The records will be subject to examination and audit by authorized **CITY** personnel or **CITY'S** representatives at any time. **CONTRACTOR** shall provide any reports requested by **CITY** regarding

performance of this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

In lieu of retaining the records for the term as prescribed in this provision, **CONTRACTOR** may, upon **CITY'S** written approval, submit the required information to **CITY** in an electronic format, e.g. USB flash drive, at the expiration or termination of this Contract.

PSC-17. Bonds

All bonds required by **CITY** shall be filed with the Office of the City Administrative Officer, Risk Management for its review and acceptance in accordance with Los Angeles Administrative Code ("LAAC") Sections 11.47 *et seq.*, as amended from time to time.

PSC-18. Indemnification

Except for the active negligence or willful misconduct of **CITY**, or any of its boards, officers, agents, employees, assigns and successors in interest, **CONTRACTOR** shall defend, indemnify and hold harmless **CITY** and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature whatsoever, for death or injury to any person, including **CONTRACTOR'S** employees and agents, or damage or destruction of any property of either party hereto or of third parties, arising in any manner by reason of an act, error, or omission by **CONTRACTOR**, Subcontractors, or their boards, officers, agents, employees, assigns, and successors in interest. The rights and remedies of **CITY** provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-19. Intellectual Property Indemnification

CONTRACTOR, at its own expense, shall defend, indemnify, and hold harmless the **CITY**, and any of its boards, officers, agents, employees, assigns, and successors in interest from and against all lawsuits and causes of action, claims, losses, demands and expenses, including, but not limited to, attorney's fees (both in house and outside counsel) and cost of litigation (including all actual litigation costs incurred by **CITY**, including but not limited to, costs of experts and consultants), damages or liability of any nature arising out of the infringement, actual or alleged, direct or contributory, of any intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity, and proprietary information: (1) on or in any design, medium, matter, article, process, method, application, equipment, device, instrumentation, software, hardware, or firmware used by **CONTRACTOR**, or its Subcontractors, in performing the work under this Contract; or (2) as a result of **CITY'S** actual or intended use of any Work Product (as defined in PSC-21) furnished by **CONTRACTOR**, or its Subcontractors, under this Contract. The rights and remedies of **CITY** provided in this section shall not be exclusive

and are in addition to any other rights and remedies provided by law or under this Contract. This provision will survive expiration or termination of this Contract.

PSC-20. Intellectual Property Warranty

CONTRACTOR represents and warrants that its performance of all obligations under this Contract does not infringe in any way, directly or contributorily, upon any third party's intellectual property rights, including, without limitation, patent, copyright, trademark, trade secret, right of publicity and proprietary information.

PSC-21. Ownership and License

Unless otherwise provided for herein, all finished and unfinished works, tangible or not, created under this Contract including, without limitation, documents, materials, data, reports, manuals, specifications, artwork, drawings, sketches, blueprints, studies, memoranda, computation sheets, computer programs and databases, schematics, photographs, video and audiovisual recordings, sound recordings, marks, logos, graphic designs, notes, websites, domain names, inventions, processes, formulas, matters and combinations thereof, and all forms of intellectual property originated and prepared by **CONTRACTOR** or its Subcontractors under this Contract (each a "Work Product"; collectively "Work Products") shall be and remain the exclusive property of **CITY** for its use in any manner **CITY** deems appropriate. **CONTRACTOR** hereby assigns to **CITY** all goodwill, copyright, trademark, patent, trade secret and all other intellectual property rights worldwide in any Work Products originated and prepared under this Contract. **CONTRACTOR** further agrees to execute any documents necessary for **CITY** to perfect, memorialize, or record **CITY'S** ownership of rights provided herein.

CONTRACTOR agrees that a monetary remedy for breach of this Contract may be inadequate, impracticable, or difficult to prove and that a breach may cause **CITY** irreparable harm. **CITY** may therefore enforce this requirement by seeking injunctive relief and specific performance, without any necessity of showing actual damage or irreparable harm. Seeking injunctive relief or specific performance does not preclude **CITY** from seeking or obtaining any other relief to which **CITY** may be entitled.

For all Work Products delivered to **CITY** that are not originated or prepared by **CONTRACTOR** or its Subcontractors under this Contract, **CONTRACTOR** shall secure a grant, at no cost to **CITY**, for a non-exclusive perpetual license to use such Work Products for any **CITY** purposes.

CONTRACTOR shall not provide or disclose any Work Product to any third party without prior written consent of **CITY**.

Any subcontract entered into by **CONTRACTOR** relating to this Contract shall include this provision to contractually bind its Subcontractors performing work under this Contract such that **CITY'S** ownership and license rights of all Work Products are preserved and protected as intended herein.

PSC-22. Data Protection

- A. **CONTRACTOR** shall protect, using the most secure means and technology that is commercially available, **CITY**-provided data or consumer-provided data acquired in the course and scope of this Contract, including but not limited to customer lists and customer credit card or consumer data, (collectively, the "City Data"). **CONTRACTOR** shall notify **CITY** in writing as soon as reasonably feasible, and in any event within twenty-four hours, of **CONTRACTOR'S** discovery or reasonable belief of any unauthorized access of City Data (a "Data Breach"), or of any incident affecting, or potentially affecting City Data related to cyber security (a "Security Incident"), including, but not limited to, denial of service attack, and system outage, instability or degradation due to computer malware or virus. **CONTRACTOR** shall begin remediation immediately. **CONTRACTOR** shall provide daily updates, or more frequently if required by **CITY**, regarding findings and actions performed by **CONTRACTOR** until the Data Breach or Security Incident has been effectively resolved to **CITY'S** satisfaction. **CONTRACTOR** shall conduct an investigation of the Data Breach or Security Incident and shall share the report of the investigation with **CITY**. At **CITY'S** sole discretion, **CITY** and its authorized agents shall have the right to lead or participate in the investigation. **CONTRACTOR** shall cooperate fully with **CITY**, its agents and law enforcement.
- B. If **CITY** is subject to liability for any Data Breach or Security Incident, then **CONTRACTOR** shall fully indemnify and hold harmless **CITY** and defend against any resulting actions.

PSC-23. Insurance

During the term of this Contract and without limiting **CONTRACTOR'S** obligation to indemnify, hold harmless and defend **CITY**, **CONTRACTOR** shall provide and maintain at its own expense a program of insurance having the coverages and limits not less than the required amounts and types as determined by the Office of the City Administrative Officer of Los Angeles, Risk Management (template Form General 146 in Exhibit 1 hereto). The insurance must: (1) conform to **CITY'S** requirements; (2) comply with the Insurance Contractual Requirements (Form General 133 in Exhibit 1 hereto); and (3) otherwise be in a form acceptable to the Office of the City Administrative Officer, Risk Management. **CONTRACTOR** shall comply with all Insurance Contractual Requirements shown on Exhibit 1 hereto. Exhibit 1 is hereby incorporated by reference and made a part of this Contract.

PSC-24. Best Terms

Throughout the term of this Contract, **CONTRACTOR**, shall offer **CITY** the best terms, prices, and discounts that are offered to any of **CONTRACTOR'S** customers for similar goods and services provided under this Contract.

PSC-25. Warranty and Responsibility of Contractor

CONTRACTOR warrants that the work performed hereunder shall be completed in a manner consistent with professional standards practiced among those firms within **CONTRACTOR'S** profession, doing the same or similar work under the same or similar circumstances.

PSC-26. Mandatory Provisions Pertaining to Non-Discrimination in Employment

Unless otherwise exempt, this Contract is subject to the applicable non-discrimination, equal benefits, equal employment practices, and affirmative action program provisions in LAAC Section 10.8 et seq., as amended from time to time.

- A. **CONTRACTOR** shall comply with the applicable non-discrimination and affirmative action provisions of the laws of the United States of America, the State of California, and **CITY**. In performing this Contract, **CONTRACTOR** shall not discriminate in any of its hiring or employment practices against any employee or applicant for employment because of such person's race, color, religion, national origin, ancestry, sex, sexual orientation, gender, gender identity, age, disability, domestic partner status, marital status or medical condition.
- B. The requirements of Section 10.8.2.1 of the LAAC, the Equal Benefits Ordinance, and the provisions of Section 10.8.2.1(f) are incorporated and made a part of this Contract by reference.
- C. The provisions of Section 10.8.3 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Equal Employment Practices" provisions of this Contract.
- D. The provisions of Section 10.8.4 of the LAAC are incorporated and made a part of this Contract by reference and will be known as the "Affirmative Action Program" provisions of this Contract.

Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-27. Child Support Assignment Orders

CONTRACTOR shall comply with the Child Support Assignment Orders Ordinance, Section 10.10 of the LAAC, as amended from time to time. Pursuant to Section 10.10(b) of the LAAC, **CONTRACTOR** shall fully comply with all applicable State and Federal employment reporting requirements. Failure of **CONTRACTOR** to comply with all applicable reporting requirements or to implement lawfully served Wage and Earnings Assignment or Notices of Assignment, or the failure of any principal owner(s) of **CONTRACTOR** to comply with any Wage and Earnings Assignment or Notices of Assignment applicable to them personally, shall constitute a default by the **CONTRACTOR** under this Contract. Failure of **CONTRACTOR** or principal owner to cure

the default within 90 days of the notice of default will subject this Contract to termination for breach. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-28. Living Wage Ordinance

CONTRACTOR shall comply with the Living Wage Ordinance, LAAC Section 10.37 *et seq.*, as amended from time to time. **CONTRACTOR** further agrees that it shall comply with federal law proscribing retaliation for union organizing. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-29. Service Contractor Worker Retention Ordinance

CONTRACTOR shall comply with the Service Contractor Worker Retention Ordinance, LAAC Section 10.36 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

- A. **CONTRACTOR** shall comply with the Americans with Disabilities Act, as amended, 42 U.S.C. Section 12101 *et seq.*, the Rehabilitation Act of 1973, as amended, 29 U.S.C. Section 701 *et seq.*, the Fair Housing Act, and its implementing regulations and any subsequent amendments, and California Government Code Section 11135;
- B. **CONTRACTOR** shall not discriminate on the basis of disability or on the basis of a person's relationship to, or association with, a person who has a disability;
- C. **CONTRACTOR** shall provide reasonable accommodation upon request to ensure equal access to **CITY**-funded programs, services and activities;
- D. Construction will be performed in accordance with the Uniform Federal Accessibility Standards (UFAS), 24 C.F.R. Part 40; and
- E. The buildings and facilities used to provide services under this Contract are in compliance with the federal and state standards for accessibility as set forth in the 2010 ADA Standards, California Title 24, Chapter 11, or other applicable federal and state law.

CONTRACTOR understands that **CITY** is relying upon these certifications and representations as a condition to funding this Contract. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-31. Contractor Responsibility Ordinance

CONTRACTOR shall comply with the Contractor Responsibility Ordinance, LAAC Section 10.40 *et seq.*, as amended from time to time.

PSC-32. Business Inclusion Program

Unless otherwise exempted prior to bid submission, **CONTRACTOR** shall comply with all aspects of the Business Inclusion Program as described in the Request for Proposal/Qualification process, throughout the duration of this Contract. **CONTRACTOR** shall utilize the Business Assistance Virtual Network ("BAVN") at <https://www.labavn.org/>, to perform and document outreach to Minority, Women, and Other Business Enterprises. **CONTRACTOR** shall perform subcontractor outreach activities through BAVN. **CONTRACTOR** shall not change any of its designated Subcontractors or pledged specific items of work to be performed by these Subcontractors, nor shall **CONTRACTOR** reduce their level of effort, without prior written approval of **CITY**.

PSC-33. Slavery Disclosure Ordinance

CONTRACTOR shall comply with the Slavery Disclosure Ordinance, LAAC Section 10.41 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-34. First Source Hiring Ordinance

CONTRACTOR shall comply with the First Source Hiring Ordinance, LAAC Section 10.44 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-35. Local Business Preference Ordinance

CONTRACTOR shall comply with the Local Business Preference Ordinance, LAAC Section 10.47 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-36. Iran Contracting Act

In accordance with California Public Contract Code Sections 2200-2208, all contractors entering into, or renewing contracts with **CITY** for goods and services estimated at \$1,000,000 or more are required to complete, sign, and submit the "Iran Contracting Act of 2010 Compliance Affidavit."

PSC-37. Restrictions on Campaign Contributions and Fundraising in City Elections

Unless otherwise exempt, if this Contract is valued at \$100,000 or more and requires approval by an elected **CITY** office, **CONTRACTOR**, **CONTRACTOR'S** principals, and **CONTRACTOR'S** Subcontractors expected to receive at least \$100,000 for performance under the Contract, and the principals of those Subcontractors (the "Restricted Persons")

shall comply with Charter Section 470(c)(12) and LAMC Section 49.7.35. Failure to comply entitles **CITY** to terminate this Contract and to pursue all available legal remedies. Charter Section 470(c)(12) and LAMC Section 49.7.35 limit the ability of the Restricted Persons to make campaign contributions to and engage in fundraising for certain elected **CITY** officials or candidates for elected **CITY** office for twelve months after this Contract is signed. Additionally, a **CONTRACTOR** subject to Charter Section 470(c)(12) is required to comply with disclosure requirements by submitting a completed and signed Ethics Commission Form 55 and to amend the information in that form as specified by law. Any **CONTRACTOR** subject to Charter Section 470(c)(12) shall include the following notice in any contract with any Subcontractor expected to receive at least \$100,000 for performance under this Contract:

"Notice Regarding Restrictions on Campaign Contributions and Fundraising
in City Elections

You are a subcontractor on City of Los Angeles Contract #_____. Pursuant to the City of Los Angeles Charter Section 470(c)(12) and related ordinances, you and your principals are prohibited from making campaign contributions to and fundraising for certain elected City of Los Angeles ("**CITY**") officials and candidates for elected **CITY** office for twelve months after the **CITY** contract is signed. You are required to provide the names and contact information of your principals to the **CONTRACTOR** and to amend that information within ten business days if it changes during the twelve month time period. Failure to comply may result in termination of this Contract and any other available legal remedies. Information about the restrictions may be found online at ethics.lacity.org or by calling the Los Angeles City Ethics Commission at (213) 978-1960."

PSC-38. Contractors' Use of Criminal History for Consideration of Employment Applications

CONTRACTOR shall comply with the City Contractors' Use of Criminal History for Consideration of Employment Applications Ordinance, LAAC Section 10.48 *et seq.*, as amended from time to time. Any subcontract entered into by **CONTRACTOR** for work to be performed under this Contract must include an identical provision.

PSC-39. Limitation of City's Obligation to Make Payment to Contractor

Notwithstanding any other provision of this Contract, including any exhibits or attachments incorporated therein, and in order for **CITY** to comply with its governing legal requirements, **CITY** shall have no obligation to make any payments to **CONTRACTOR** unless **CITY** shall have first made an appropriation of funds equal to or in excess of its obligation to make any payments as provided in this Contract. **CONTRACTOR** agrees that any services provided by **CONTRACTOR**, purchases made by **CONTRACTOR** or expenses incurred by **CONTRACTOR** in excess of the appropriation(s) shall be free and without charge to **CITY** and **CITY** shall have no obligation to pay for the services, purchases or expenses. **CONTRACTOR** shall have no obligation to provide any services,

provide any equipment or incur any expenses in excess of the appropriated amount(s) until **CITY** appropriates additional funds for this Contract.

PSC-40. Compliance with Identity Theft Laws and Payment Card Data Security Standards

CONTRACTOR shall comply with all identity theft laws including without limitation, laws related to: (1) payment devices; (2) credit and debit card fraud; and (3) the Fair and Accurate Credit Transactions Act ("FACTA"), including its requirement relating to the content of transaction receipts provided to Customers. **CONTRACTOR** also shall comply with all requirements related to maintaining compliance with Payment Card Industry Data Security Standards ("PCI DSS"). During the performance of any service to install, program or update payment devices equipped to conduct credit or debit card transactions, including PCI DSS services, **CONTRACTOR** shall verify proper truncation of receipts in compliance with FACTA.

PSC-41. Compliance with California Public Resources Code Section 5164

California Public Resources Code Section 5164 prohibits a public agency from hiring a person for employment or as a volunteer to perform services at any park, playground, or community center used for recreational purposes in a position that has supervisory or disciplinary authority over any minor, if the person has been convicted of certain crimes as referenced in the Penal Code, and articulated in California Public Resources Code Section 5164(a)(2).

If applicable, **CONTRACTOR** shall comply with California Public Resources Code Section 5164, and shall additionally adhere to all rules and regulations that have been adopted or that may be adopted by **CITY**. **CONTRACTOR** is required to have all employees, volunteers and Subcontractors (including all employees and volunteers of any Subcontractor) of **CONTRACTOR** working on premises to pass a fingerprint and background check through the California Department of Justice at **CONTRACTOR'S** sole expense, indicating that such individuals have never been convicted of certain crimes as referenced in the Penal Code and articulated in California Public Resources Code Section 5164(a)(2), if the individual will have supervisory or disciplinary authority over any minor.

PSC-42. Possessory Interests Tax

Rights granted to **CONTRACTOR** by **CITY** may create a possessory interest. **CONTRACTOR** agrees that any possessory interest created may be subject to California Revenue and Taxation Code Section 107.6 and a property tax may be levied on that possessory interest. If applicable, **CONTRACTOR** shall pay the property tax. **CONTRACTOR** acknowledges that the notice required under California Revenue and Taxation Code Section 107.6 has been provided.

PSC-43. Confidentiality

All documents, information and materials provided to **CONTRACTOR** by **CITY** or developed by **CONTRACTOR** pursuant to this Contract (collectively "Confidential Information") are confidential. **CONTRACTOR** shall not provide or disclose any Confidential Information or their contents or any information therein, either orally or in writing, to any person or entity, except as authorized by **CITY** or as required by law. **CONTRACTOR** shall immediately notify **CITY** of any attempt by a third party to obtain access to any Confidential Information. This provision will survive expiration or termination of this Contract.

EXHIBIT 1

INSURANCE CONTRACTUAL REQUIREMENTS

CONTACT For additional information about compliance with City Insurance and Bond requirements, contact the Office of the City Administrative Officer, Risk Management at (213) 978-RISK (7475) or go online at www.lacity.org/cao/risk. The City approved Bond Assistance Program is available for those contractors who are unable to obtain the City-required performance bonds. A City approved insurance program may be available as a low cost alternative for contractors who are unable to obtain City-required insurance.

CONTRACTUAL REQUIREMENTS

CONTRACTOR AGREES THAT:

1. Additional Insured/Loss Payee. The CITY must be included as an Additional Insured in applicable liability policies to cover the CITY'S liability arising out of the acts or omissions of the named insured. The CITY is to be named as an Additional Named Insured and a Loss Payee As Its Interests May Appear in property insurance in which the CITY has an interest, e.g., as a lien holder.

2. Notice of Cancellation. All required insurance will be maintained in full force for the duration of its business with the CITY. By ordinance, all required insurance must provide at least thirty (30) days' prior written notice (ten (10) days for non-payment of premium) directly to the CITY if your insurance company elects to cancel or materially reduce coverage or limits prior to the policy expiration date, for any reason except impairment of an aggregate limit due to prior claims.

3. Primary Coverage. CONTRACTOR will provide coverage that is primary with respect to any insurance or self-insurance of the CITY. The CITY'S program shall be excess of this insurance and non-contributing.

4. Modification of Coverage. The CITY reserves the right at any time during the term of this Contract to change the amounts and types of insurance required hereunder by giving CONTRACTOR ninety (90) days' advance written notice of such change. If such change should result in substantial additional cost to CONTRACTOR, the CITY agrees to negotiate additional compensation proportional to the increased benefit to the CITY.

5. Failure to Procure Insurance. All required insurance must be submitted and approved by the Office of the City Administrative Officer, Risk Management prior to the inception of any operations by CONTRACTOR.

CONTRACTOR'S failure to procure or maintain required insurance or a self-insurance program during the entire term of this Contract shall constitute a material breach of this Contract under which the CITY may immediately suspend or terminate this Contract or, at its discretion, procure or renew such insurance to protect the CITY'S interests and pay any and all premiums in connection therewith and recover all monies so paid from CONTRACTOR.

6. Workers' Compensation. By signing this Contract, CONTRACTOR hereby certifies that it is aware of the provisions of Section 3700 *et seq.*, of the California Labor Code which require every employer to be insured against liability for Workers' Compensation or to undertake

self-insurance in accordance with the provisions of that Code, and that it will comply with such provisions at all time during the performance of the work pursuant to this Contract.

7. California Licensee. All insurance must be provided by an insurer admitted to do business in California or written through a California-licensed surplus lines broker or through an insurer otherwise acceptable to the CITY. Non-admitted coverage must contain a **Service of Suit** clause in which the underwriters agree to submit as necessary to the jurisdiction of a California court in the event of a coverage dispute. Service of process for this purpose must be allowed upon an agent in California designated by the insurer or upon the California Insurance Commissioner.

8. Aggregate Limits/Impairment. If any of the required insurance coverages contain annual aggregate limits, CONTRACTOR must give the CITY written notice of any pending claim or lawsuit which will materially diminish the aggregate within thirty (30) days of knowledge of same. You must take appropriate steps to restore the impaired aggregates or provide replacement insurance protection within thirty (30) days of knowledge of same. The CITY has the option to specify the minimum acceptable aggregate limit for each line of coverage required. No substantial reductions in scope of coverage which may affect the CITY'S protection are allowed without the CITY'S prior written consent.

9. Commencement of Work. For purposes of insurance coverage only, this Contract will be deemed to have been executed immediately upon any party hereto taking any steps that can be considered to be in furtherance of or towards performance of this Contract. The requirements in this Section supersede all other sections and provisions of this Contract, including, but not limited to, PSC-3, to the extent that any other section or provision conflicts with or impairs the provisions of this Section.

Required Insurance and Minimum Limits

Name: Los Angeles FireDepartmentDate: 11/15/2018Agreement/Reference: 3Di, Inc. - Brush Clearance Inspection Management Software

Evidence of coverages checked below, with the specified minimum limits, must be submitted and approved prior to occupancy/start of operations. Amounts shown are Combined Single Limits ("CSLs"). For Automobile Liability, split limits may be substituted for a CSL if the total per occurrence equals or exceeds the CSL amount.

Limits

✓ Workers' Compensation (WC) and Employer's Liability (EL)

WC	Statutory
EL	1,000,000

☐ Waiver of Subrogation in favor of City☐ Longshore & Harbor Workers☐ Jones Act

✓ General Liability \$1,000,000 per occurrence/\$2,000,000 aggregate

1,000,000

☒ Products/Completed Operations☐ Sexual Misconduct☐ Fire Legal Liability☐

___ Automobile Liability (for any and all vehicles used for this contract, other than commuting to/from work)

✓ Professional Liability (Errors and Omissions)

1,000,000

Discovery Period 12 month extended reporting period

___ Property Insurance (to cover replacement cost of building - as determined by insurance company)

☐ All Risk Coverage☐ Boiler and Machinery☐ Flood☐ Builder's Risk☐ Earthquake☐

Pollution Liability

☒ Automobile Liability must provide coverage for any occurrence arising from the transport of hazardous waste.

___ Surety Bonds - Performance and Payment (Labor and Materials) Bonds

___ Crime Insurance

Other: General Notes:

1. If a contractor has no employees and decides to not cover herself/himself for workers' compensation, please complete the form entitled "Request For Waiver Of Workers' Compensation Insurance Requirement" located at: <http://cao.lacity.org/risk/InsuranceForms.htm>

2. In the absence of imposed auto liability insurance requirements all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.