

LOS ANGELES FIRE DEPARTMENT



RALPH M. TERRAZAS
FIRE CHIEF

April 29, 2021

BOARD OF FIRE COMMISSIONERS
FILE NO. 21-055

TO: Board of Fire Commissioners

FROM: *RMT* Ralph M. Terrazas, Fire Chief

SUBJECT: AGREEMENT WITH 3Di, INC. FOR A FIRE INSPECTION
MANAGEMENT SYSTEM PURSUANT TO THE REQUEST FOR
PROPOSALS NO. 2019-038-006

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 Withdrawn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

The LAFD Fire Prevention and Public Safety Bureau (FPB) uses no fewer than six separate and disconnected computer software systems for managing its various fire inspection and other business processes. These systems are each more than ten years old, are aging and unsupported platforms and are not integrated in a manner that allows them to work together. This lack of integration results in, among other things, numerous inefficient processes, duplication of data and potential errors.

The LAFD identified the need to replace the existing systems with a single, unified enterprise system that is better suited to meet the current and future needs of the Department, and is easier for the Department to modify and maintain. Pursuant to City Charter Section 372, on October 16, 2019, the LAFD issued a Request for Proposals (RFP) for a Fire Inspection Management System (RFP No. 2019-038-006). The Contractor submitted a proposal in response to the RFP, and the LAFD determined that the Contractor possesses the qualifications and experience necessary to provide the services requested in that the Contractor received the highest score out of the seven (7) proposals that were evaluated by the LAFD. 3Di is a professional services and software company with experience providing software solutions of similar complexity for more than twenty (20) years, including other LA City departments and state and local government municipal organizations similar to the LAFD located throughout the U.S.

The proposed term is for five (5) years, commencing upon the date of execution by the City Clerk, with the option to extend the term for an additional five (5) years, subject to the availability of funds. The maximum compensation is not to exceed \$2,782,080.

The attached Agreement has been reviewed and approved by the City Attorney as to legal form. Pursuant to Los Angeles City Charter Section 373, approval by the City Council is required.

RECOMMENDATIONS

That the Board:

1. Approve and authorize the Fire Chief to execute the Agreement with 3Di, Inc. to provide a fire inspection management system for a five-year term, commencing upon the date of execution by the City Clerk, and terminating five years from that date, with authority for the Fire Chief to exercise the option to execute an amendment to extend the term of the Agreement for up to one five-year term, contingent on the contractor having provided satisfactory services under the Agreement, and subject to the availability of funds and the review and approval by the City Attorney.
2. Transmit the Agreement to the Mayor for review and approval, in accordance with Executive Directive No. 3.

FISCAL IMPACT

There is no impact to the General Fund. Funding for this Agreement will be available through the Development Services Trust Fund.

Board Report prepared by Scott B. Porter, Chief Information Officer, Information Technology Bureau.

Attachments

Attachment: Final Scoring Summary

An Evaluation Committee, comprised of personnel from the Department's Fire Prevention and Public Safety Bureau and Information Technology Bureau, reviewed and scored the eligible proposals based on the following criteria:

- **Company Qualifications & Experience**
- **Approach and Methodology**
- **Fit to Requirements**
- **Cost**

The evaluation scores of the six (6) eligible proposers are listed below.

Scoring Rank	
Vendor	Score
3Di, Inc.	84
Accela, Inc.	78
ImageTrend, Inc.	75
Vision33, Inc.	74
One Step Information Systems	70
EPR Systems USA, Inc.	14
e2020 Technology, Inc.	Disqualified

Of the six eligible proposers, 3Di, Inc. received the top score of 84 points.

AGREEMENT NO. _____

AGREEMENT BETWEEN

THE CITY OF LOS ANGELES

AND

3Di, INC.

FOR

FIRE INSPECTION MANAGEMENT SYSTEM

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AGREEMENT NO. _____

AGREEMENT
BETWEEN THE CITY OF LOS ANGELES
AND
3Di, INC.

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 the Los Angeles Fire Department (hereinafter referred to as “Fire Department” or “LAFD” or “Department”), and 3Di, Inc., a California corporation (hereinafter referred to as “Contractor”), with reference to the following:

WHEREAS, the LAFD, Fire Prevention and Public Safety Bureau (FPB) uses no fewer than six separate and disconnected computer software systems for managing its various fire inspection and other business processes; and

WHEREAS, the lack of integration of these systems results in, among other things, numerous inefficient processes, duplication of data and potential errors; and

WHEREAS, the LAFD identified the need to replace the existing systems with a single, unified enterprise system that is better suited to meet the current and future needs of the Department, and is easier for the Department to modify and maintain; and

WHEREAS, competitive bidding under Charter Section 371 was not required for this Agreement because the Agreement is for the performance of professional, scientific, expert, technical, or other special services of a temporary and occasional character for which competitive bidding under Charter Section 371 is not practicable or advantageous; and

WHEREAS, pursuant to Charter Section 372, on October 16, 2019, the LAFD issued a Request for Proposals (RFP) for a Fire Inspection Management System (RFP No. 2019-038-006); and

WHEREAS, the Contractor submitted a proposal in response to the RFP, and the LAFD has determined that the Contractor possesses the qualifications and experience necessary to provide the services requested in that the Contractor received the highest score out of the seven (7) proposals that were evaluated by the LAFD; and

WHEREAS, the Contractor is a professional services and software development company with more than 25 years of experience providing software solutions of similar complexity for other large state and local government agencies similar to the LAFD and located throughout the U.S.; and

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

WHEREAS, the City and Contractor desire to enter into this Agreement for a five (5) year term not to exceed \$2,782,080 with the option to extend the term on time for an additional five (5) years, subject to the availability of funds.

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

1.0 SECTION 1: GENERAL

1.1 Project Overview

The purpose of this project is to replace the aging fire inspection and reporting system with a new, easy to use system that can support the Department's fire inspection reporting and full range of other operational needs related to fire prevention.

1.2 Work Location

Contractor's Key Personnel, including the Project Manager and Solution Architect, shall 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 off-site at Contractor's office locations.

1.3 Parties to the Agreement

- A. City – The City of Los Angeles, a municipal corporation, acting by and through the Los Angeles Fire Department, having its principal office at:

Los Angeles City Fire Department Headquarters
200 North Main St., 18th Floor
Los Angeles, CA, 90012

- B. Contractor – 3Di, Inc. a California corporation, having its principal office at:

3Di, Inc.
3 Pointe Drive, Suite 307
Brea, CA 92821

1.4 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:

Ralph M. Terrazas, Fire Chief
Los Angeles Fire Department
200 N. Main St., Room 1800
Los Angeles, CA 90012

With copies to:

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 & C.F.O.
3Di, Inc.
3 Pointe Drive, Suite 307
Brea, CA 92821

With copies to:

Rajiv Desai, President & C.E.O.
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 affected 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.

2.0 SECTION 2: TERM OF AGREEMENT

2.1 Term

The term of this Agreement shall commence upon the date of attestation by the Los Angeles City Clerk, and will terminate five (5) years from that date, unless otherwise terminated by the City as provided for in this Agreement.

2.2 Amendments

The Board of Fire Commissioners has authorized the Fire Chief to extend the Agreement for an additional five (5) years, utilizing the amendment process described in Section PSC-5, Amendment, of Attachment A – Standard Provisions for City Contracts (Rev. 10/17)[v.3], attached hereto and incorporated by reference herein. Any amendment to extend the term of this Agreement is contingent on the availability of funds and the Contractor having provided satisfactory services under this Agreement.

2.3 Ratification of Agreement

To the extent that the Contractor may have begun performance of the services before the date of execution at the City's request and due to the immediate needs of the LAFD, the City hereby ratifies and accepts those services performed in accordance with this Agreement and authorizes

payment as provided by the terms of this Agreement. Notwithstanding this Section, the term of this Agreement will remain as stated above.

3.0 SECTION 3: SCOPE OF WORK

3.1 Contract Services

The Contractor shall provide the system software solution and services as described in the Statement of Work, attached hereto as Attachment B and incorporated into this Agreement by reference as though fully set forth herein, and to the extent not inconsistent with this Agreement and the applicable pages in the Contractor's Response to the LAFD's Request for Proposal No. 2019-038-006, attached to this Agreement as Attachment C, and incorporated by reference as though fully set forth herein.

3.2 Licensing

The Contractor hereby grants City a license to access and use the System and all constituent components during the term of this Agreement. City's license to access and use the System includes an unlimited number of end-user licenses for LAFD to use for its governmental purposes.

3.2.1 Source Code Deposit

Contractor hereby grants City a license to use, reproduce, and create derivative works from the Deposit Material for City's governmental purposes as necessary to maintain and support the System.

Within 30 business days of the Effective Date, Contractor shall deposit the source code for the System, as well as the Documentation and names and contact information for each author or other creator of the System, with a third-party software escrow agent that is mutually agreed to by the Contractor and the City. Promptly after release of any update, upgrade, patch, bug fix, enhancement, new version, or other revision to the System, Contractor shall deposit updated source code, documentation, names, and contact information ("Deposit Materials") with the City in an encrypted and password-protected file (or in such other matter or to such other place, or both, that LAFD's Chief Information Officer or his designee agrees to in writing). Contractor shall ensure that the Deposit Materials include all documentation necessary to enable a person of reasonable skill with software to compile and build a machine-readable code for the System, to maintain the System, and fully to operate the System.

Upon the occurrence of a Release Condition (as defined below), Contractor shall provide City with the Deposit Materials and all necessary information to allow City to access and utilize the Deposit Materials as provided in this Section, including the passwords or authentication tokens necessary to City's access to the Deposit Materials.

The term "Release Conditions," as used in this Agreement, refers to any of the following: (a) material breach by Contractor, if such breach remains uncured for 30 or more business days after City written notice; (b) any failure of Contractor to function as a going concern; (c) appointment, application for, or consent to a receiver, trustee, or other custodian for Contractor or its assets;

(d) Contractor becomes insolvent or unable to pay its debts as they mature in the ordinary course or makes an assignment for the benefit of creditors; (e) Contractor is liquidated or dissolved; or (f) any proceedings are commenced with regard to Contractor under any bankruptcy, insolvency, or debtor's relief law, and such proceedings are not dismissed within 60 days.

The rights and licenses granted to City in this Section 3.0, are "intellectual property" rights, as defined in Section 365(n) of the United States Bankruptcy Code (11 U.S.C. Sections 101, et seq.). If Contractor is subject to any proceeding under the United States Bankruptcy Code, and Contractor as debtor in possession or its trustee in bankruptcy rejects this Agreement, City may, pursuant to 11 U.S.C. Section 365(n)(1) and (2), retain any and all rights granted to it under the License Provisions to the maximum extent permitted by law. This Section will not be construed to limit or restrict any right or remedy not set forth in this Section, including without limitation the right to retain any license or authority this Agreement grants pursuant to any provision other than in this Section.

3.3 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 by way of an amendment to this Agreement. Contractor shall immediately notify the City in writing of any work that is requested to be performed that is outside of the original scope of work covered by this Agreement. 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 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.

3.4 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.

4.0 SECTION 4: PAYMENT AND INVOICING

4.1 Total Fixed Price

The total, not to exceed, amount for this contract is \$2,782,080.

4.2 Payment Milestones

The contract total will be paid as follows:

Project Implementation \$1,510,800

Payment #	Payment Milestone	Payment
1	System Design and Project Plan	\$ 67,669.00
2	Fire Stations	\$ 266,230.00
3	Fire Stations modules Prorated Maintenance Operation and Support	\$ 29,963.00
4	Integration	\$ 64,400.00
5	Commercial & Industrial	\$ 212,247.00
6	Commercial & Industrial modules Prorated Maintenance Operation and Support	\$ 13,472.00
7	Legacy Data Conversion	\$ 42,000.00
8	Public Safety	\$ 206,967.00
9	Public Safety modules Prorated Maintenance Operation and Support	\$ 13,317.00
10	Other Fire Inspections	\$ 204,327.00
11	VM53 Migration	\$ 179,179.00
12	Fire Dev Services Migration	\$ 211,029.00
Total Year 1:		\$ 1,510,800.00

One year after final system acceptance, the City, may, at its discretion and provided funding is available, continue with an annual service agreement each year thereafter (Years 2 - 5) at a firm, fixed price as follows:

Payment Milestone	Amount Due
Year 2	\$317,820
Year 3	\$317,820
Year 4	\$317,820
Year 5	\$317,820

After Year 5, the City, may, at its discretion and provided funding is available, continue annual service each year thereafter for up to five (5) additional years at an annual increase from the previous year of no more than 3% each year.

4.3 Travel Expenses

The Contractor, from time to time, shall provide for staff to meet on-site with the LAFD as-needed to participate in key scheduled project events such as milestones, deliverables or other important project events. All Contractor travel expenses are included in the firm fixed price and shall not be billed separately.

4.4 Invoicing

4.4.1 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.

5.0 SECTION 5: DATA, MANAGEMENT, SECURITY, AND PRIVACY

5.1 Data Ownership and Use

The City is the sole and exclusive owner of all data and information that is managed or contained within the system and/or provided to the Contractor by or on behalf of City pursuant to this Agreement and any and all updates or modifications thereto or derivatives thereof made by Contractor ("City Data"), and all intellectual property rights in the foregoing, whether or not provided to any other party under this Agreement. Subject to the restrictions articulated elsewhere in this Agreement, City grants Contractor a non-transferable, non-exclusive, terminable at-will license, solely for the term of this Agreement, to use City Data solely for purposes of performing the services pursuant to this Agreement for City's benefit.

5.2 Confidential Data

City Data is Confidential Information for the purposes of this Agreement. Contractor shall not use City Data for any purpose other than that of rendering the services under this Agreement, nor sell, assign, lease, dispose of or otherwise exploit City Data. Contractor shall not possess or assert any lien or other right against or to City Data. City may request an export of City Data stored within the systems or held by Contractor in standard forms or formats that are mutually agreed upon between Contractor and City at no charge to City.

5.3 Data Protection in General

The protection of personal privacy and personally identifiable data shall be an integral part of the business activities of Contractor, and Contractor shall use all reasonable efforts to prevent inappropriate or unauthorized use of City Data at any time and safeguard the confidentiality, integrity, and availability of City Data.

5.4 Contractor's Information Security Contact

Upon execution of this Agreement, Contractor shall provide to LAFD's Chief Information Officer the names and contact information (emails and mobile telephone numbers) for Contractor's designated information security personnel to whom LAFD should direct any inquiries concerning information security concerns. Contractor shall designate and provide contact information for a minimum of two individuals. In the event the information security personnel will be unavailable for a period of the performance of this Agreement, Contractor shall designate appropriate individuals to respond to LAFD inquiries and Contractor shall provide to LAFD the names, contact information, and period of time for which these individuals shall be available.

5.5 Data Protection Encryption

Unless otherwise stipulated in writing, Contractor shall encrypt all City Data at rest and in transit with controlled access. The Contractor shall apply and support encryption solutions that are certified against U.S. Federal Information and Processing Standard 140-2, Level 2, or equivalent industry standard, and verify that the encryption keys and keying material are not stored with any associated data. Whenever and wherever applicable, Contractor shall apply and support industry standards or better for tokenization, fraud-use protection, format-preserving encryption, and data encryption technology.

5.6 Data Protection Copying

At no time shall any City data be copied, disclosed, or retained by Contractor or any party related to Contractor, including its subcontractors, for use in any process, publication, or transaction that is not specifically authorized by the City in writing.

5.7 Data Protection Hacking

Contractor shall secure and protect all City Data from hacking, viruses, ransomware, and denial of service and related attacks.

5.8 Cloud Hosting and Storage

The Contractor shall host the production system(s) and data in Amazon AWS Standard Cloud's North America (US) Region. The Contractor shall notify the City of any proposed changes to the hosting and / or storage platforms and any changes in hosting or storage provider must be approved by the City at least 30 days in advance. Without diminishing Contractor's other obligations under this Agreement, Contractor shall perform regular (and in no event less than semi-annual) vulnerability assessments of any of Contractor's AWS cloud storage that (i) interacts with City systems or (ii) hosts City Data. Contractor shall immediately remediate any identified vulnerabilities. Contractor shall securely provide City with copies of any vulnerability assessments performed in relation to this cloud storage, as well as reports of the actions taken to address any identified vulnerabilities.

5.9 Access Limitations

Contractor shall use precautions, including, but not limited to, physical software and network security measures, personnel screening, training and supervision, and appropriate agreements to prevent anyone other than authorized City personnel, users and subcontractors with a specific need to know, for a purpose authorized under this Agreement, from monitoring, using, gaining access to City Data. The Contractor shall also protect appropriate copies of City Data from loss, corruption, or unauthorized alteration and prevent the disclosure of City and Contractor usernames, passwords, API keys, and other access control information to anyone other than authorized City personnel.

5.10 Least Privilege

Contractor shall authorize access only to the minimum number of resources required to fulfil the Contractor's responsibilities in this contract.

5.11 Separation of Duties

The Contractor shall, as much as practical, divide functions among its staff members to reduce the risk of creating an undue dependency on one key person and reducing the risk of fraud being undetected.

5.12 Role-Based Security

The Contractor shall restrict access to authorized users and base access control on the role a user plays in the Contractor's organization.

5.13 Credential Restrictions

Contractor shall restrict the use of, and access to, administrative credentials for accounts and system services accessing City Data, to only those of Contractor's personnel and subcontractors whose access is essential for the purpose of providing the Contracted Services or performing obligations under this Agreement. Contractor shall require personnel and subcontractors to log on using an assigned user-name and password when administering City accounts or accessing City Data. These controls must enable Contractor to promptly revoke or change access in response to terminations or changes in job functions, as applicable. Contractor shall encrypt all passwords, passphrases, and PINs, using solutions that are certified against U.S. Federal Information and Processing Standard 140-2, Level 2, or equivalent industry standard, and verify that the encryption keys and keying material are not stored with any associated data. Contractor shall implement any City request to revoke or modify user access within twenty-four (24) hours or the next business day of receipt of City's request. Contractor shall disable user accounts after, at most, ten (10) consecutive invalid authentication attempts.

5.14 Physical and Environmental Security

Contractor facilities that process City Data must provide a physically secure environment from unauthorized access, damage, and interference.

5.15 Operational Controls

Contractor shall implement operational procedures and controls designed to ensure that technology and information systems are configured and maintained according to prescribed internal standards and consistent with applicable Industry Standard Safeguards. Examples of

Industry Standard Safeguards are ISO/IEC 27002:2005, NIST 800-44, Microsoft Security Hardening Guidelines, OWASP Guide to Building Secure Web Applications, SOC 2 Type 2, and the various Center for Internet Security Standards. Moreover, Contractor shall use application security and software development controls designed to eliminate and minimize the introduction of security vulnerabilities.

5.16 Antivirus

Contractor shall have and maintain antivirus protection configured to automatically search for and download updates (daily, at a minimum) and perform continuous virus scans. Malware and threat detection must be updated continuously, and software patches provided by vendors must be downloaded and implemented in a timely manner. If Contractor is unable to implement these controls in a timely manner, Contractor shall notify City in writing.

5.17 Vulnerability Management and Patching

Contractor shall employ vulnerability management and regular application, operating system, and other infrastructure patching procedures and technologies designed to identify, assess, mitigate, and protect against new and existing security vulnerabilities and threats, including viruses, bots, and other malicious code.

5.18 Network Controls

Contractor shall have, shall implement, and shall maintain network security controls, including the use of firewalls, layered DMZs and updated intrusion detection and prevention systems, reasonably designed to protect systems from intrusion or limit the scope or success of any attack or attempt at unauthorized access to City Data.

5.19 Logging and Monitoring

Unless prohibited by applicable law, Contractor shall, and shall require subcontractors to, continuously monitor its networks and personnel for malicious activity and other activity that may cause damage or vulnerability to City Data. Contractor shall maintain logs of administrator and operator activity and data recovery events related to City Data.

5.20 Changes in Service.

Contractor shall notify the City of any changes, enhancement, and upgrades to the System Administration and Network Security, or changes in other related services, policies, and procedures, as applicable, which can adversely impact the security of City Data.

5.21 Policies

Contractor shall, and shall require subcontractors to, establish and maintain a formal, documented, mandated, company-wide information security program, including security policies, standards, and procedures (collectively “Information Security Policy”), and communicate the Information Security Policy to all of its respective personnel in a relevant, accessible, and understandable form. Contractor shall regularly review and evaluate the Information Security Policy to ensure its operational effectiveness, compliance with all applicable laws and regulations, and to address new threats and risks. Upon execution of this Agreement and thereafter within three (3) days of City’s request, Contractor shall make available for review by the City Contractor’s Information Security Policy and any related SOC audits or

other evidence that Contractor has in place appropriate policies and procedures regarding information protection and security.

5.22 Vulnerability and Risk Assessments

At least annually, Contractor shall perform vulnerability tests and assessments of all systems that contain City Data. For any of Contractor's applications that process City Data, such testing must also include penetration tests using intercept proxies to identify security vulnerabilities that cannot be discovered using automated tools, and code review or other manual verifications to occur at least annually.

5.23 Right of Audits by City/Security Review Rights

City and its agents, auditors (internal and external), regulators, and other representatives as City may designate, may inspect, examine, and review the facilities, books, systems, records, data, practices, and procedures of Contractor (and any personnel and subcontractors that Contractor may use) that are used in rendering services to City to verify the integrity of City Confidential Information and to monitor compliance with the confidentiality and security requirements for City Confidential Information. In lieu of an on-site audit, at City's discretion and upon request by the City, the Contractor agrees to complete, within fourteen (14) days of receipt, an audit questionnaire provided by the City regarding the Contractor's data privacy and information security program. Contractor shall comply with all recommendations that result from such inspections, tests, and audits within reasonable timeframes.

5.24 Data Backup and Emergency Recovery

Contractor shall employ a multilayered approach to backups and disaster recovery, including the use of a primary data center and a backup data center. Contractor shall perform both local and remote backups of the complete server infrastructure, including server operating systems, applications, and data. Contractor shall perform Disaster Recovery Tests no less than semi-annually. Contractor shall maintain and comply with a reasonable written plan (the "DR Plan") setting forth procedures for (a) mitigating disruption to systems during and after an earthquake, hurricane, other natural disaster, war, act of terrorism, act of cyberterrorism, and other natural or man-made disaster, including without limitation Force Majeure Events (as that term is used in PSC-6, Excusable Delays, of the Standard Provisions for City Contracts (Rev. 10/17)[v.3] (collectively, a "Disaster"); and (b) restoring Service functionality promptly after a Disaster. The DR Plan will include procedures no less protective than industry standard, and Contractor shall update the DR Plan as the industry standard changes.

5.25 Data Return and Destruction

At the conclusion of the Agreement and as instructed by City, Contractor shall (at its sole cost) return, delete, or destroy City Data then in its possession or under its control including, without limitation, originals, and copies of such City data. The following types of information are excluded from this requirement: (i) City Data that becomes a part of the public domain, including through court filings; and (ii) City Data that Contractor is required to maintain, by law, regulations, or by the terms of this Agreement, but only for the time period required. For the avoidance of doubt, anything that is stored on routine backup media solely for the purpose of disaster recovery will be subject to destruction in due course rather than immediate return or

destruction pursuant to this paragraph, provided that Personnel are precluded from accessing such information in the ordinary course of business prior to destruction.

Contractor shall implement and utilize appropriate methods to ensure the destruction of City Data. Such methods shall be in accordance with recognized industry best practices and shall leave no data recoverable on Contractor's computers or other media.

Contractor agrees to certify that City Data has been returned, deleted, or destroyed from its systems, servers, off-site storage facilities, office locations, and any other location where Contractor maintains City Data within forty-five (45) days of receiving City's request that the information be returned, deleted, or destroyed. Contractor shall document its verification of data removal, including tracking of all media requiring cleaning, purging or destruction.

5.26 Data Breach

Contractor shall notify City in writing as soon as reasonably feasible, but in any event within twenty-four hours, or if later, the next business day after Contractor's discovery of any unauthorized access of City Data or Contractor becoming reasonably certain that such unauthorized access has occurred (a "Data Breach"), or of any event that compromises the integrity, confidentiality or availability of City Data (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 if requested by City, and, in any event, reasonably frequent updates, regarding findings and actions performed by Contractor until the Data Breach or Security Incident has been resolved to City's satisfaction. Contractor shall conduct an investigation of the Data Breach or Security Incident and shall share a report of the investigation findings with City. At City's sole discretion, City and/or its authorized agents shall have the right to conduct an independent investigation of a Data Breach. Contractor shall cooperate fully with City and its agents in that investigation. If the City is subject to liability for any Data Breach or Security Incident, the Contractor shall fully indemnify and hold harmless the City and defend against any resulting actions.

5.27 Confidentiality

5.27.1 City's Confidential Information

For purposes of this Section 5.27, "Confidential Information" means any nonpublic information whether disclosed orally or in written or digital media, received by Contractor that is either marked as "Confidential" or "Proprietary" or which the Contractor knows or should have known is confidential or proprietary information. City Data shall be treated as Confidential Information by Contractor under this Agreement, even if such data is not marked "Confidential" or "Proprietary" or was obtained by or transferred to Contractor prior to the effective date of this Agreement.

5.27.2 Protection of Confidential Information

Except as expressly authorized herein, Contractor shall (a) hold in confidence and not disclose any Confidential Information to third parties and (b) not use Confidential Information for any purpose other than fulfilling its obligations and exercising its rights under this Agreement or

performing the contracted services. Contractor shall limit access to Confidential Information to Contractor personnel and subcontractors that are previously disclosed to City and, (1) who have a need to know such information for the purpose of Contractor performing its obligations or exercising its rights under this Agreement, or performing Contracted Services; (2) who have confidentiality obligations no less restrictive than those set forth herein; and (3) who have been informed of the confidential nature of such information. In addition, the Contractor shall protect Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At LAFD's request or upon termination or expiration of this Agreement, the Contractor shall return to LAFD any Deliverables not provided to the City and Contractor shall destroy (or permanently erase in the case of electronic files) all copies of Confidential Information, and Contractor shall, upon request, certify to City its compliance with this sentence.

5.27.3 Exceptions

The confidentiality obligations set forth in Section 5.27 shall not apply to any Confidential Information that (a) is at the time of disclosure or becomes generally available to the public through no fault of the Contractor; (b) is lawfully provided to the Contractor by a third party free of any confidentiality duties or obligations; (c) was already known to the Contractor at the time of disclosure free of any confidentiality duties or obligations; or (d) the Contractor can demonstrate was independently developed by personnel of the Contractor without reference to the Confidential Information. In addition, the Contractor may disclose Confidential Information to the extent that such disclosure is necessary for the Contractor to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that (to the extent legally permissible) the Contractor promptly notifies LAFD in writing of such required disclosure, cooperates with LAFD if LAFD seeks an appropriate protective order, and the Contractor discloses no more information that is legally required.

5.28 Compliance with Privacy Laws

Contractor is responsible for ensuring that Contractor's performance of its obligations and exercise of its rights under this Agreement complies with all applicable local, state, and federal privacy laws and regulations, as amended from time to time. If this Agreement or any practices which could be, or are, employed in performance of this Agreement become inconsistent with or fail to satisfy the requirements of any of these privacy laws and regulations, City and Contractor shall in good faith execute an amendment to this Agreement sufficient to comply with these laws and regulations and Contractor shall complete and deliver any documents necessary to show such compliance. The City acknowledges and agrees that Contractor is not responsible for giving any notices to or obtaining any consents from any other party in order for Contractor to process the City Data as contemplated by this Agreement.

6.0 SECTION 6: REPRESENTATIONS AND WARRANTIES

Contractor represents and warrants that:

6.1 Compliance with Law

The services that the Contractor provides pursuant to this Agreement will comply with all applicable laws, including without limitation federal, state, and local.

6.2 Authority to Contract and No Pending Litigation

The Contractor has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation known to it would have a material adverse impact on its ability to perform as required by this Agreement.

6.3 Intellectual Property Warranty

(i) The Contractor's performance under this Agreement 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 or proprietary information; and (ii) the Contractor is the owner of the intellectual property rights for the services provided pursuant to this Agreement and of each and every component thereof, or has a valid license for the services provided, as described in Subsection 6.3.1

6.3.1 Third Party Software

In the event the Contractor provides any third-party software ("Third-Party Software"), including Open Source Software, to the City in connection with this Agreement:

- 6.3.1.1 The Contractor has and will maintain the right to license and provide access to any Third-Party Software licensed to the City, or otherwise provided to the City under this Agreement;
- 6.3.1.2 The Third-Party Software does not, and the use of the Third-Party Software by the City as contemplated by this Agreement will not, infringe any intellectual property rights, including, without limitation, patents, copyrights, trademarks, trade secrets, rights of publicity, and proprietary information, of any third party in any way;
- 6.3.1.3 The City is not obligated to pay any third party any fees, royalties, or other payments for the City's use of any Third-Party Software in accordance with the terms of this Agreement; and
- 6.3.1.4 To the extent permitted by law or contract, the Contractor shall pass through to the City the warranties for the Third-Party Software.
- 6.3.1.5 The Contractor shall provide City license to use any Third-Party Software necessary for the functionality of the System at no additional cost, and inclusive of licensing for any unlimited number of users. Contractor shall ensure that all software is properly licensed at no additional cost to the City, including, but not limited to, any required third-party licenses. The Contractor shall ensure that any required third-party licenses are maintained within fully supported versions, and that any 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.

6.3.2 Definition of Open Source Software.

For purposes of this section, “Open Source Software” means any software, programming, or other intellectual property that is subject to (i) the GNU General Public License, GNU Library General Public License, Artistic License, BSD license, Mozilla Public License, or any similar license, including, but not limited to, those licenses listed at www.opensource.org/licenses, or (ii) any agreement with terms requiring any intellectual property owned or licensed by the City to be (a) disclosed or distributed in source code or object code form; (b) licensed for the purpose of making derivative works; or (c) redistributable.

6.3.3 Third-Party and Open Source Software.

With regard to open-source software and any third-party software embedded system, all such software shall be considered, as appropriate, part of and included in the definition of “the System” and subject to all warranties, indemnities, and other requirements of this Agreement, including scope of license and maintenance and support.

6.4 Conformity to Specifications

The System will perform materially as described in Attachment B, Statement of Work.

6.5 Workmanlike Performance

All professional services will be performed in a professional and workmanlike manner, according to at least prevalent industry standards, and performed by competent personnel.

6.6 Disabling Code Warranty

No software or services to which the City is provided access and use hereunder contains any undisclosed disabling code (defined as computer code designed to interfere with the normal operation of the software or the City’s hardware or software) or any program routine, device or other undisclosed feature, including but not limited to, a time bomb, virus, drip-dead device, malicious logic, worm, Trojan horse, or trap door which is designed to delete, disable, deactivate, interfere with or otherwise harm the software or the City’s hardware or software.

6.7 Virus/Malicious Software Warranty

The Contractor has used its best efforts to scan for viruses within the software, and no malicious system will be supplied under this Agreement.

7.0 SECTION 7: MISCELLANEOUS

7.1 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.

7.2 Audit Rights

In addition to those rights available to City elsewhere in this Agreement, including pursuant to PSC-16, Retention of Records, Audit and Reports, of Attachment A – Standard Provisions for City Contracts (Rev. 10/17)[v.3)]. 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.

7.3 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.

7.4 Change in Control

Contractor may not, unless it has first obtained the written permission of City, assign or otherwise alienate any of its rights under this Contract, including the right to payment. Notwithstanding anything in this Section to the contrary, Contractor may assign this Contract or any rights or obligations under this Contract in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, if (i) the successor entity agrees to be bound by the terms of this Contract; (ii) there is no material decrease in the performance or functionality of the System; and (iii) Key Employees continues to be substantially involved with the successor entity after such transaction and continues to manage the work performed under this Contract

7.5 Separation Assistance

In the event of separation, Contractor shall provide reasonable separation assistance to City to facilitate separation. Contractor shall further guarantee elimination from the Contractor's services of all City Data and Confidential Information upon separation.

7.6 Publicity/Case Studies

Contractor shall refer all inquiries from the news media to City, shall immediately contact City to inform City of the inquiry, and shall comply with the procedures of City's Public Affairs staff regarding statements to the media relating to this Agreement or Contractor's services hereunder. Contractor shall not use City as a reference or case study absent receipt of City's prior written approval. Contractor shall further provide City with the opportunity to review and approve any such reference or case study prior to publication. In no event may Contractor use any City marks in conjunction with a reference or case study.

8.0 SECTION 8: 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.

9.0 SECTION 9: CITY CONTRACTING REQUIREMENTS

9.1 Standard Provisions

Contractor shall comply with the Standard Provisions for City Contracts (Rev. 10/17)[v.3], attached hereto as Attachment A and incorporated by reference as though fully set forth herein.

9.2 Disclosure of Border Wall Contracting Ordinance

Contractor shall comply with Los Angeles Administrative Code (LAAC) Section 10.50 *et seq.*, “Disclosure of Border Wall Contracting Ordinance.” City may terminate this Agreement at any time if City determines that Contractor failed to fully and accurately complete the required affidavit and disclose all Border Wall Bids and Border Wall Contracts, as defined in LAAC Section 10.50.1.

10.0 SECTION 10: ORDER OF PRECEDENCE

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) Attachment B – Statement of Work
- 3) Attachment A – Standard Provisions for City Contracts (Rev. 10/17)[v.3]
- 4) Attachment C – Applicable pages from Contractor’s Proposal to LAFD RFP No. 2019-038-006

11.0 SECTION 11: 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. No-shrink-wrap, click-wrap, privacy policy, or other terms and conditions or agreements (“Additional Contractor Software Terms”) provided with any products, services, documentation, or software provided by Contractor to City hereunder shall be binding on the City, even if use of the foregoing requires an affirmative “acceptance” of those Additional Contractor Software Terms before access is permitted. All such Additional Contractor Software Terms will be of no force or effect and will be deemed rejected by the City in their entirety.

12.0 SECTION 12: COUNTERPARTS/ELECTRONIC SIGNATURES

This Agreement may be executed in one or more counterparts, and by the parties in separate counterparts, each of which when executed shall be deemed to be an original but all of which taken together shall constitute one and the same agreement. The parties further agree that facsimile signatures or signatures scanned into .pdf (or signatures in another electronic format designated by City) and sent by e-mail shall be deemed original signatures.

[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**: _____
Rajiv Desai
President

By: _____
Samuel W. Petty
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.

Agreement Number: _____

ATTACHMENT A

STANDARD PROVISIONS FOR CITY CONTRACTS (10/17)[v.3]

STANDARD PROVISIONS FOR CITY CONTRACTS

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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: 3Di Inc.Date: 04/28/2021Agreement/Reference: Fire Inspection Management System

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 - Workers' Compensation (WC) and Employer's Liability (EL)**
WC StatutoryEL \$1,000,000☐ Waiver of Subrogation in favor of City☐ Longshore & Harbor Workers☐ Jones Act

☒ **General Liability**
\$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)
\$2,000,000Discovery Period See Note #3

☐ **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**
☐ _____

☐ **Surety Bonds - Performance and Payment (Labor and Materials) Bonds**

100% of the contract price

☐ **Crime Insurance**

Other: 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 requirements, all contractors using vehicles during the course of their contract must adhere to the financial responsibility laws of the State of California.

3) Coverage to include Fiduciary Liability (if applicable), Errors & Omissions, Cyber Liability and Data Breach

ATTACHMENT B
STATEMENT OF WORK

FIRE INSPECTION MANAGEMENT SYSTEM

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SECTION 1.0 GENERAL

1.1 Project Objectives

The objective of this project is to implement a Fire Inspection Management System (FIMS) that meets the needs of the City of Los Angeles (City), Los Angeles Fire Department (LAFD or Department) and complies with all federal, state and local regulatory and reporting requirements related to the Department's fire inspection and prevention duties. The Department expects that this enterprise system will replace a number of outdated legacy systems and assist in maintaining a common fire inspection process across inspection types that is easy to use by both sworn and civilian staff members.

1.2 In Scope Services

The project scope includes the following Inspection Types:

Types of Inspection	Inspectors	Annual Inspections
Fire Stations	1,000*	169,205
Hydrant Inspections		70,000
R1R2		54,350
Occupancy		44,855
Commercial & Industrial	25	8,458
Central Industrial Unit	8	2,305
Harbor Industrial Unit	4	2,264
Valley Industrial Unit	6	2,255
West Industrial Unit	4	1,300
Legal Cannabis Unit	3	334
Public Safety	49	10,707
Film Unit	5	483
Institutions Unit	5	914
Public Assemblage Unit	14	2,295
Schools & Churches Unit	8	3,540
Valley Public Safety	6	2,772
High and Low Rise Unit	11	703
Other Fire Inspections	25	5,420
Hydrant Access Plans Review	5	4,450
Research Unit	3	350
Legal Unit	7	100
Illegal Cannabis Unit	10	520
Contractors - Brycer Reg 4	800⁺	25,500

And the following two programs are using a different system built by 3Di, Inc. (Contractor). The Project scope includes migration of these programs to the new FIMS:

- Brush Clearance – VMS3
- Fire Development Services

And the following services, which are described in detail in the sections below:

- Project Management
- System Design and Configuration
- System Installation and Testing-
- System Training
- System Implementation and Cutover Support
- System Warranty, Maintenance and Support

1.3 Contractor's Response to Request for Proposals (RFP) No. 2019-038-006

This Statement of Work is based on the Contractor's written response to the LAFD's RFP No. 2019-038-006, as set forth in Attachment C. This Statement of Work is written with the intention and expectation that the Contractor will deliver the system with all of the features and capabilities as described and demonstrated during the RFP process.

SECTION 2.0 PROJECT MANAGEMENT

2.1 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 Contractor's Project Manager will work remotely from the Contractor's offices in the United States and will be available to work on-site as-needed for key project tasks and meetings.

The City will provide a dedicated project manager who will act as the City's single point of contact for all communications related to the day-to-day project activities.

2.2 Project Team

The Contractor will provide a team of professionals that possess the required skills and experience necessary to perform the required project tasks. The Contractor's team size may vary from time to time based on the needs and priorities of the project. The City's project team size may vary from time to time based on the needs and priorities of the project.

2.3 Project Reporting and Escalation of Issues

The Contractor will provide the City with regular reports of project status, including, but not limited to, schedules, scopes and project risks no less than once per month and more frequently as needed. The Contractor shall escalate any issues or concerns that are not being resolved and may impact the success of the project, including, but not limited to, the schedule and cost or risk of completion, in writing to the City's project manager or other executive representative as appropriate.

SECTION 3.0 SYSTEM DESIGN & CONFIGURATION

3.1 Property Inventory Management

The Contractor shall provide the ability to manage an inventory of property assets, such as land parcels, structures, hydrants, tanks, etc. used by all inspection programs. The Contractor shall provide a means of using various available source property information databases in order to create the initial property inventory and a means of electronically updating (refreshing) the property inventory on a frequent and regular schedule.

3.2 Code Management

The Contractor shall provide the ability to manage any type and any number of statutory/regulatory codes from a variety of sources (e.g. fire codes, building codes, municipal codes) to be used by all inspection programs. The Contractor shall provide a means of using various available source property information databases in order to create the initial code tables and a means of electronically updating (refreshing) the codes on a frequent and regular schedule.

3.3 Inspection Programs

For each in-scope inspection programs listed in Section 1.2 above, the Contractor shall provide the ability to perform and manage such programs with features and functions, including, but not limited to, the collection of data using forms and checklists, the creation of required validation rules and workflows, the generation of notices, support for both scheduled recurring and one-time ad-hoc inspection types, and the invoicing and collection of payments when applicable. The Contractor shall work with the City to identify requirements and workflows that are common to all inspection programs (types) and those that are unique to each of the listed inspection programs.

3.4 Service Requests, Referrals and Complaints

Subject to a maximum of 250,000 inspection cases per year, the Contractor shall provide the ability to perform and manage any number of fire prevention related service request, referral and complaint types, such as, but not limited to: public reports, named and anonymous referrals, field referrals, and other requests for service. The Contractor shall provide a means for both system users (in-application) and community users (via Community Portal) to enter, update and check on the status of service requests, referrals and complaints.

3.5 Community Portal

The Contractor shall provide a means of interacting with the public and other stakeholders via an online, public access “community portal”. The community portal shall provide the City and community members with secure access to a variety of key fire prevention information and a means to complete inspection-related tasks online without having to physically visit a LAFD facility, such as, but not limited to, property look-up, requests for service or documentation, and online payment.

3.6 Reporting and Data Analytics

The Contractor shall provide a means of reporting and visualizing operational data contained within the system. The Contractor shall provide both ‘fixed’ or predefined reports and ‘dynamic’ dashboards to view data and assist the user in completing required tasks accurately and on time. The Contractor shall work with the City to identify those reports and data views for both the ‘enterprise’ system and for each inspection program.

The Contractor shall provide a means of general data search and lookup to assist the user in finding information in an easy and timely manner. The Contractor shall provide a means of creating ‘ad hoc’ or impromptu reports to retrieve and display important operational data in a meaningful manner.

3.7 Data Mart

The Contractor shall provide timely and unlimited access to all system data in a manner that is suitable for the City to use for enterprise reporting and data analytics without dependency or performance degradation of the production system(s). The Contractor shall provide a written description of data fields, use and relationships sufficient for the City to perform analysis. The City may use and/or access this data without restriction for analytics, independent of any software tools that may be provided by the Contractor.

3.8 System Access and End-User Devices

The Contractor shall provide the City with secure access to the system from the public Internet using any model desktop, laptop, tablet or mobile devices using a current release version of any of the Contractor supported web browsers including: Apple Safari (MacOS and iOS), Google Chrome and Chrome Mobile, Mozilla Firefox, and Windows Edge.

For all supported inspection programs, the Contractor shall provide a means of continuing to work when the mobile device is temporarily unable to connect to the Internet (e.g. “off-line mode”) so that work can continue, uninterrupted by network outages or poor network signal, and without data loss.

3.9 System Environments

The Contractor shall provide the City with sufficient system environments to support the City’s ability to conduct system configuration, maintenance, training, development and testing without interruption to the production systems once they become operational. This includes the ability to conduct training independent of system configuration and testing.

3.10 User Management

The Contractor shall provide a means of managing authorized system users and their access levels. The Contractor shall provide user authentication using the City’s Azure Active Directory so that users do not have to be managed in multiple places. The Contractor shall provide a ‘role-based’ access system to control individual user access to various system features and functions.

3.11 Data Retention and Archiving

The Contractor shall retain all system records and City data and provide unlimited, unrestricted access to the City for as long as the contract is in effect.

3.12 Integrations & Interfaces

The Contractor shall provide system-to-system integrations and interface to the following external systems that will provide or consume data to/from the Contractor’s systems.

3.12.1 General Integration Application Programming Interface (API)

The Contractor shall provide a secure, well documented and robust application programming interface (API) that allows for the near real-time exchange of information to and from the fire inspection system and other systems that may provide and/or rely on data contained within the fire inspection system.

3.12.2 LAFD Computer Aided Dispatch (CAD)

The Contractor shall provide an API that allows for the near real-time exchange of information to and from the LAFD CAD, which is custom system built and maintained by LAFD staff.

3.12.3 LAFD Azure Active Directory

The Contractor shall provide an integration to the City's Azure Active Directory as a means for managing user authentication so that user credentials are centrally managed, outside of the Contractor's system.

3.12.4 LAFD Human Capital Management

The Contractor shall provide an integration to the LAFD's Human Capital Management system using an API in order to exchange key LAFD members, such as, but not limited to, certifications, credentials, rank data so that this data is centrally managed in one place, outside of the Contractor's system.

3.12.5 City of Los Angeles, Department of Cannabis Regulation (DCR)

The Contractor shall provide an interface to the DCR suitable for the exchange of information between the fire inspection system and DCR in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.6 LAFD Reg 4 Compliance System (Brycer)

The Contractor shall provide an interface to the Brycer system suitable for the exchange of information between the fire inspection system and Brycer in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.7 LAFD Data Warehouse

The Contractor shall provide a mechanism for providing fire inspection data in near real time to the LAFD data warehouse located in Azure.

3.12.8 FilmLA

The Contractor shall provide an interface to the FilmLA system suitable for the exchange of information between the fire inspection system and FilmLA in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.9 City of Los Angeles, Department of Public Works, Bureau of Street Services (Street Services)

The Contractor shall provide an interface to the Street Services system suitable for the exchange of information between the fire inspection system and Street Services in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.10 City of Los Angeles, Office of Finance (LATAX System)

The Contractor shall provide an interface to the LATAX system suitable for the exchange of information between the fire inspection system and LATAX in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.11 LADBS BuildLA

The Contractor shall provide an interface to the LADBS BuildLA system suitable for the exchange of information between the fire inspection system and BuildLA in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.12 City of Los Angeles Financial Management System (FMS)

The Contractor shall provide an interface to the City's FMS system suitable for the exchange of information between the fire inspection system and FMS in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.13 City of Los Angeles 311 System

The Contractor shall provide an interface to the City's 311 system suitable for the exchange of information between the fire inspection system and 311 system in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.12.14 City of Los Angeles Universal Cashiering

The Contractor shall provide an interface to the City's Universal Cashiering system suitable for the exchange of information between the fire inspection system and Universal Cashiering in order to support the required exchange of information workflows between the two systems. Contractor shall provide all required periodic changes and/or other modifications in order to maintain compliance with the most current standards for the duration of the contract.

3.13 Legacy Data Conversion

The Contractor shall provide a means of converting data from legacy fire prevention systems of record for each of the in-scope inspection programs. The Contractor shall work with the City to analyze each data source and design an implementation/import approach. The Contractor shall

perform the required development, scripting, report tasks needed to import the data into the new fire inspection system and provide the City with a means of validating the data for accuracy and completeness. The Contractor shall ensure that any data conversion/import efforts do not adversely affect the performance of the production system.

SECTION 4.0 SYSTEM TESTING

4.1 User Acceptance Testing

The Contractor shall develop a comprehensive user acceptance test plan that provides assurance and verification that the LAFD workflows and configurations have been implemented as designed. The Contractor shall work with the City to perform each of the user acceptance tests and to complete any and all necessary remediation needed for the system to successfully pass user acceptance testing before the system is accepted by the City.

4.2 System Performance Testing

The Contractor shall work with the City to design and preform a comprehensive system performance test to verify system responsiveness under expected load prior to system go-live cut-over.

4.3 Off-Line User Test

The Contractor shall work with the City to design and preform a comprehensive off-line test to verify system usage when no network connection is available prior to system go-live cut-over.

SECTION 5.0 SYSTEM TRAINING AND IMPLEMENTATION

5.1 Training Plan and Materials

The Contractor shall work with the City to develop a comprehensive training plan sufficient to support both end-user and system administrator training. At a minimum, the Training Plan will identify course objectives, materials required, suggested size, duration and any prerequisite knowledge or experience. The Contractor will develop and provide one (1) electronic master copy of all required written course material suitable for reproduction and distribution by the City.

5.2 System Training

The Contractor shall provide all required training so that City team members are able to perform the required system functions and fulfill the City's ongoing support responsibilities. The Contractor shall utilize a "train-the-trainer" approach for end-user training, and provide the required training, lesson plans and materials to City trainers so that the City is able to deliver training to end-users. The Contractor will provide a training environment 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 other testing, development environment(s).

5.3 System Documentation

The Contractor shall provide all required system administration, data management and end-user documentation sufficient for the City to properly operate and maintain the system(s).

5.4 System Implementation

The Contractor shall provide a system implementation plan that allows for the incremental implementation of inspection programs as they become available so that the system can be implemented incrementally over time and not all at once.

5.5 Support During Implementation

The Contractor shall provide staff on-site and in-person for no fewer than seven (7) days during each system implementation and cut-over period. The Contractor's staff will be available to work during normal business hours and after-hours as-needed to assist the City with any issues related to system cut-over including, but not limited to: system configuration, system performance, end-user support, system administration support.

SECTION 6.0 SYSTEM OPERATION AND SUPPORT SERVICES

6.1 System Hosting (Software-as-a-Service)

The Contractor shall provide all required hardware, software and system infrastructure necessary to operate and manage the system. The City shall provide network (Internet) connectivity from client devices using supported web browsers. Besides the supported web browser, the Contractor shall not require the City to provide any additional software on the client devices. Besides the client devices, the Contractor shall not require the City to provide any additional hardware or software or to use the City infrastructure. The field inspection applications for offline supported functions would be native to the devices that are mutually agreed upon between the City and the Contractor.

6.1 System Uptime and Performance

The Contractor shall ensure that the production system is operational a minimum of 99.99% of the time as measured twenty-four (24) hours per day, seven (7) days per week. The Contractor shall ensure that the system is responsive to user input, even during peak usage periods, and does not slow or become unresponsive in a way that interrupts the normal workflow or day-to-day operation. Any continued or prolonged disruption of service that is more than this shall be considered a material breach of this agreement and subject to termination or other available remedies.

6.2 Data Storage and Retention

The Contractor shall provide the City with all required storage sufficient to continuously maintain all City records without the need to archive or otherwise delete any records for the entire duration of the contract.

6.3 Software Maintenance Minor Updates

The Contractor shall perform all required minor system software updates as-needed for the duration of this contract. 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 with no or minimal service outages or disruptions. All minor changes will be coordinated with and approved by the City at least 72-hours in advance and, whenever possible, performed during non-business hours to ensure minimal disruption to the LAFD operations.

6.4 Software Maintenance Major Updates

The Contractor shall perform all required major version upgrades as-needed for the duration of this contract. 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 and performed with no or minimal service outages or disruptions. All major changes will be coordinated with and approved by the City at least two (2) weeks in advance and, whenever possible, performed during non-business hours to ensure minimal disruption to the LAFD operations.

6.5 Software Releases

The Contractor shall provide a mechanism and schedule for predictably managing software releases, enhancements and/or customizations, including updates, patches and upgrades in a manner that does not disrupt the production environment or operational use of the system. The Contractor shall obtain written approval from the City before implementing any software updates in the production system and will coordinate appropriate notice to the City of any potential system disruptions.

6.6 Routine Product Support

The Contractor shall provide the City with a dedicated account manager who will act as the Contractor's single point of contact for the delivery of day-to-day support services. The account manager will work remotely and be available during the City's normal business hours from 6:00 a.m. to 6:00 p.m. Pacific Time, Monday through Friday, excluding City holidays, via phone and email. The Contractor's account manager will be available to work on-site occasionally, as-needed for key project tasks and meetings. The Contractor will ensure that the City's account manager will provide a timely response in addressing the City's day-to-day operational support needs.

Routine product support shall include, but not necessarily be limited to: expert assistance with product knowledge and system use and configuration; assistance with the evaluation and implementation of new system features; assistance with planning, testing and assistance with implementation of minor and major releases; and other ongoing product support.

6.7 Emergency, After-Hours Product Support

The Contractor shall provide after-hours professional support service available 24 hours per day, seven days per week (24x7) to address urgent system issues that negatively impact the City's ongoing operations. The Contractor shall provide an initial response within one (1) hour and resolve critical "system down" issues, or provide the identification of an acceptable resolution and estimated time to complete within eight (8) hours.

6.8 System Continuity Support

The Contractor shall provide up to 140 hours per month of support service time available to make changes, including, but not limited to: the addition of new features and enhancements to the system as needed to account for changing business needs; the creation of new reports, dashboards or data views; the periodic importing and/or updating of external source data such as property inventory and fire codes; knowledge transfer or staff training on system administration and configuration; or any number of other miscellaneous tasks required to meet continual operational needs. Individual tasks will be limited to those that can be completed in ten (10)

hours or less. Single tasks that require more than ten (10) hours to complete will be considered out-of-scope and require a change order. Monthly support hours reset at the beginning of each month and do not carry over from month-to-month.

6.9 System Support Service Levels

The Contractor shall provide support services 24 hours per day, 7 days per week. The Contractor shall provide normal support hours from 6:00 a.m. to 6:00 p.m. Pacific Time, seven (7) days per week and 'after hours' support the remaining times. The Contract shall provide a means for the City to contact the Contractor support during and after-hours by phone, email or other means. The Contractor shall adhere to the following service levels:

6.9.1 Priority 1 - Urgent

In the event of problems that result in the system not being available and/or one or more critical functions not working as accepted and where there are no reasonable workarounds, the Contractor shall provide an immediate response to the initial request for service in less than one (1) hour from time of notification and a resolution to system restoration in no more than eight (8) hours, or the identification of an acceptable resolution and estimated time to complete.

6.9.2 Priority 2 – High

In the event of problems that result in the system being operational but with a significant loss of functionality, such as serious, persistent, system-wide performance issues, or malfunctions of critical functions that prevent part or all of an operation from being completed, the Contractor shall provide an immediate response to the initial request for service in less than one (1) hour from time of notification and a resolution to system restoration in no more than twenty-four (24) hours, or the identification of an acceptable resolution and estimated time to complete.

6.9.3 Priority 3 – Medium

In the event of problems that result in the system being operational but not as expected, such as intermittent performance problems, intermittent malfunctions of some/minor system functions, and/or problems that are isolated to a particular user or device, the Contractor shall provide a response to the initial request for service in less than twenty-four (24) hours from time of notification and a resolution to system restoration in no more than one (1) week, or the identification of an acceptable resolution and estimated time to complete.

6.9.4 Service Level Agreement Penalties

6.9.4.1 Notwithstanding anything in this Statement of Work or this Section 6.9.4 to the contrary, Contractor acknowledges that the System is utilized by LAFD to perform a

critical public safety function and that loss of System functionality or availability to the City may constitute a material breach of this Agreement.

- 6.9.4.2 The System shall be available 99.99%, measured monthly, excluding scheduled maintenance, as agreed to by the Contractor and the City;
- 6.9.4.3 For the System to be available, the City must be able to access and use the System and its constituent features in the manner and for the purposes for which City has entered into this Agreement with Contractor.
- 6.9.4.4 If City requires scheduled or planned maintenance, any uptime or downtime calculation will exclude periods affected by such maintenance, provided that such scheduled maintenance is performed on schedule and does not exceed a time period agreed to by City in advance.
- 6.9.4.5 Any downtime resulting from outages of third-party connections or utilities or other reasons beyond Contractor's control will be excluded from any downtime calculation, when such outages are the result of a Force Majeure Event, as such term is defined in PSC-6, Excusable Delays, of the Standard Provisions for City Contracts (Rev.10/17)[v.3]
- 6.9.4.6 For each period of downtime lasting longer than one hour, Contractor will credit the City with 5% of service fees for each period of 60 or more minutes of downtime; provided that no more than one such credit will accrue per day.
- 6.9.4.7 Downtime shall begin to accrue as soon as the City (with notice to Contractor via email or telephone) recognizes that downtime is taking place, and continues until the availability of the System is restored. Credits accrued pursuant to this Section shall be applied to the billing period subsequent to the billing period during which the downtime occurred that resulted in the accrual of the credits.

6.9.5 Issue Tracking and Reporting

The Contractor shall provide a means of recording and tracking all service requests and provide periodic reports, no less than once per month, of service requests, status and resolution times. The Contractor shall report to the City the total number, severity and status of requests made during the reporting period as well as actual and overall average time of the resolution.

ATTACHMENT C

**APPLICABLE PAGES
FROM CONTRACTOR'S PROPOSAL
TO RFP NO. 2019-038-006**