

LOS ANGELES FIRE COMMISSION

BOARD OF FIRE COMMISSIONERS

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ERIC GARCETTI
Mayor

SUE STENGEL
INDEPENDENT ASSESSOR

EXECUTIVE OFFICE
200 NORTH MAIN STREET, SUITE 1840
LOS ANGELES, CA 90012

(213) 978-3838 PHONE
(213) 978-3814 FAX

September 7, 2016

Honorable Members of the City Council
City of Los Angeles
City Hall, Room 395
Attn: City Clerk

Honorable Eric Garcetti
Mayor, City of Los Angeles
City Hall, Room 303
Attn: Mandy Morales, Legislative Coordinator

[BFC 16-100] – BRYCER LLC CONTRACT

At its meeting of September 6, 2016, the Board of Fire Commissioners approved the report and its recommendation. The report is hereby transmitted concurrently to the Mayor and City Council for consideration and approval.

Should you need additional information, please contact the Board of Fire Commissioners' office at 213-978-3838.

Sincerely,

Sandra Gonzalez
Acting Commission Executive Assistant

Attachment

cc: Board of Fire Commissioners (without attachments)
Fire Chief Ralph M. Terrazas (without attachments)

September 6, 2016

LOS ANGELES FIRE DEPARTMENT




RALPH M. TERRAZAS
FIRE CHIEF

APPROVED: 9/6/16
BOARD OF FIRE COMMISSIONERS
BY: Stephanie Martinez 9/6/16
COMMISSION EXECUTIVE ASSISTANT

August 22, 2016

BOARD OF FIRE COMMISSIONERS
FILE NO. 16-100

TO: Board of Fire Commissioners
FROM:  Ralph M. Terrazas, Fire Chief
SUBJECT: BRYCER CONTRACT

FINAL ACTION:	<input checked="checked" 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 Withdrawn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

This report recommends the Board of Fire Commissioners approval to execute an Agreement with Brycer LLC for continued implementation of the proprietary software and service solution – The Compliance Engine. The City lacks the necessary technology to provide the services of overseeing the compliance on approximately 100,000 fire protection systems within a jurisdiction that encompass an area of 470 square miles. Therefore, the Fire Department seeks the services of Brycer LLC to provide this oversight using The Compliance Engine.

RECOMMENDATION

That the Board:

Approve the Agreement with Brycer LLC, and forward this agreement to the Mayor's Office and City Council.

FISCAL IMPACT

The program is fully funded by the companies who perform the certification testing of the live/safety systems as the contractors are paid to perform the test by the Building Owner.

Board report prepared by John N. Vidovich, Deputy Chief, Fire Prevention and Public Safety Bureau.

AGREEMENT No. _____

**AGREEMENT
BETWEEN THE CITY OF LOS ANGELES
AND
BRYCER, LLC**

This Agreement is made between the City of Los Angeles (hereinafter referred to as the "CITY"), a municipal corporation, acting by and through its Los Angeles Fire Department (hereinafter referred to as the "LAFD") and Brycer, LLC, (hereinafter referred to as the "CONTRACTOR").

WHEREAS, the Oregon Public Procurement Authority completed a formal, competitive solicitation and selection process on May 30, 2014 (RFP No. 1406) and on August 21, 2014 entered into a three (3) year Master Price Agreement ("PPA MPA") with CONTRACTOR to provide an internet-based *Software-As-A-Service* inspection, testing and maintenance reporting system for fire and life safety compliance; and

WHEREAS, the CITY wishes to take advantage of the above referenced competitive contracting process ("piggyback"); and

WHEREAS, the LAFD is responsible for providing Fire Protection Services to the public and requires the assistance of the CONTRACTOR to develop a more efficient, internet-based system outlined in the PPA MPA to manage and oversee Regulation 4 compliance of Fire Control Systems ("FCS") in all buildings with fire protection systems under its jurisdiction; and

WHEREAS, the LAFD executed a twelve (12) month pilot program (Agreement C-126027) with the CONTRACTOR to test the technology ("Solution," "The Compliance Engine" and/or "TCE REG 4") outlined in the PPA MPA; and

WHEREAS, the Solution enables the submittal of required FCS test reports in accordance with the LAFD Fire Chief's Regulation 4 requirements online and subsequently provides the LAFD a more efficient and accurate process to track and monitor Regulation 4 compliance and meet Public Safety needs; and

WHEREAS, the CONTRACTOR possesses specialized technical skills, knowledge and expertise not found within the CITY's workforce; and

WHEREAS, this Agreement shall remain in effect through August 6, 2017 and may be extended for five (5) additional three-year terms if agreed by both parties in writing; and

NOW, THEREFORE, the Parties hereby agree as follows:

1. ADOPTION OF THE OREGON PUBLIC PROCUREMENT AUTHORITY MASTER PRICE AGREEMENT

The signed PPA MPA is incorporated herein and attached as Appendix E, except as otherwise noted in paragraphs 2-17.

2. REFERENCES TO PPA AND PURCHASER

All references to "PPA" and "PURCHASER" shall be replaced with "CITY" and/or "LAFD" in Appendix-E.

3. SCOPE OF WORK

The Scope of Work is defined in Appendix A of this Agreement.

4. TERM

CONTRACTOR will provide LAFD with the Solution commencing the date of execution of this Agreement up to August 6, 2017. Subject to the approval of the Los Angeles City Council, the Parties may, at their discretion, extend the overall term of this Agreement by written amendment for five (5) additional three-year periods. The amendments will be subject to the performance of all terms of this Agreement by the parties.

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 immediate needs, 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.

5. SURVIVABILITY

Following the expiration or termination of the Term as provided in the CONTRACTOR's Terms and Conditions (Appendix C), LAFD shall stop using the Solution; provided, however, CONTRACTOR shall make available, and LAFD shall have the right to download, LAFD's data from the Solution for a period of not less than sixty (60) days and no more than ninety (90) days after the expiration or termination of the Term.

6. TERMINATION

Either party shall have the right to terminate this Agreement upon giving ninety (90) days written notice to the other party. This provision shall supersede PSC 10.a. of the CITY's Standard Provisions for CITY Contracts (rev 03/09).

7. CONTRACTOR RESPONSIBILITIES

During the term of this Agreement, CONTRACTOR shall be responsible for the following in connection with LAFD's use of the Solution:

- **Availability.** CONTRACTOR shall make the Solution available to LAFD as set forth in Appendix A - Scope of Work. The maintenance schedule and minimum service levels for the Solution are set forth on Appendix D - Maintenance Schedule and Minimum Service Level.
- **Scope of Work.** May be amended from time to time by LAFD and CONTRACTOR as mutually agreed
- **Service Level.** CONTRACTOR shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with LAFD and access the Solution.

- **Backup.** CONTRACTOR shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis.
- **Return of Data.** Upon request by LAFD or made prior to or within sixty (60) days after the effective date of termination of the Term, CONTRACTOR will make available to LAFD a complete and secure (i.e. encrypted and appropriately authenticated) download file of LAFD data in XML format including all schema and attachments in their native format.
- **Data Security.** CONTRACTOR shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of LAFD data. The CONTRACTOR shall take all reasonable measures to protect against loss of data. In cases where there is a loss, CONTRACTOR shall make all reasonable measures to recover the lost data. In the event data is unrecoverable, CONTRACTOR shall be liable for reasonable costs to the LAFD in reconstructing said data.
- **Control and Release of Data.** CONTRACTOR shall not (a) modify LAFD data or (b) disclose LAFD data to any third party, except as required by law.
- **Retention of Information.** CONTRACTOR will maintain all information entered into the database by third party testers for at least five (5) years from the time such information is entered into the database.
- **Notices.** CONTRACTOR will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due, (b) notices that a test is past due; and (c) notices of completed test reports which contain one or more deficiencies.
- **Updates and Enhancements.** In the event CONTRACTOR releases any updates, corrections, or enhancements to the Solution during the term of this Agreement, CONTRACTOR shall promptly provide such updates or corrections to LAFD free of any charge or fee.

8. LAFD RESONSIBILITIES

During the Term, LAFD shall be responsible for the following in connection with LAFD's use of the Solution:

- **Operating System.** LAFD shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the LAFD's equipment (the "LAFD Access Software") and for the installation of network connections to the Internet. In addition to any other LAFD Access Software requirements, LAFD must use Internet Explorer 11.0, Edge, Firefox version 37, Chrome 40 or Safari 7.1 (or more recent versions) Internet, in addition to having a .pdf reader installed on machines to view attachments.
- **Training.** LAFD shall allow CONTRACTOR at LAFD's facilities to train all applicable personnel of LAFD on the use of the Solution.
- **Information.** LAFD shall provide CONTRACTOR, within thirty (30) days of execution of this Agreement, with all appropriate information necessary for CONTRACTOR to create the database for the Solution, including without limitation: (a) all commercial building addresses within CITY's jurisdiction for CONTRACTOR's initial upload; and (b) quarterly updates to in a format acceptable to CONTRACTOR in its discretion.
- **Reports.** LAFD will require all compliant and deficient test results to be submitted by certified tester.

9. FEES

LAFD shall not pay any fees for use of the Solution. CONTRACTOR will be responsible to collect all fees due and payable by third party testers in connection with activities relating to the Solution.

10. OWNERSHIP OF DATA

LAFD owns all the data provided by LAFD and received from third party contractors for LAFD. CONTRACTOR shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of LAFD's data.

11. NOTICES

All notices CONTRACTOR provides related to this Agreement will be made by mail, return receipt requested, to:

Ralph M. Terrazas, Fire Chief
Los Angeles Fire Department
200 North Main Street, Room 1800
Los Angeles, California 90012

with copies to:

John Vidovich, Fire Marshall
Los Angeles Fire Department
200 N. Main Street, Room 1700
Los Angeles, California 90012

All notices LAFD provides related to this Agreement will be made by mail, return receipt requested, to:

Bryan Schultz, Director
Brycer, LLC
4355 Weaver Parkway, Suite 330
Warrenville, Illinois 60555

12. ORDER OF PRECEDENT

The Order of Precedent for this Agreement is:

- this Agreement, including Appendix A –Scope of Work and Appendix D –Maintenance Schedule and Minimum Service Level;
- Appendix B - CITY's Standard Provisions including Exhibit A to Appendix B - CITY's Insurance Requirements;
- Appendix C - CONTRACTOR's Terms and Conditions; and,
- Appendix E – Oregon Public Procurement Authority Master Pricing Agreement.

Where there is a conflict between this Agreement and the CITY's Standard Provisions and the Terms and Conditions provided by CONTRACTOR or PPA MPA, this Agreement and the CITY's Provisions for Standard Contracts shall prevail.

The CITY acknowledges and agrees that The Compliance Engine and all components of The Compliance Engine and any derivatives thereof shall remain the sole and exclusive property of CONTRACTOR notwithstanding any other provision of this Agreement or the CITY's Standard Provisions for City Contracts.

13. CITY STANDARD PROVISIONS

With the exceptions of PSCs 27, 28 and 29, the CONTRACTOR, by entering into this agreement with the LAFD, agrees to abide by the CITY's Standard Provisions, attached hereto and incorporated herein as Appendix B.

14. NON-DISCRIMINATION

Notwithstanding any other provision of any ordinance of the CITY to the contrary, every Agreement which is let, awarded or entered into with or on behalf of the CITY, shall contain by insertion therein a provision obligating the CONTRACTOR in the performance of such Agreement not to discriminate in his or her Employment Practices against any employee or applicant for employment because of the applicant's race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition. All CONTRACTORS who enter into such Agreements with the CITY shall include a like provision in all subcontracts awarded for work to be performed under the Agreement with the CITY. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

15. EQUAL EMPLOYMENT PRACTICES

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$1,000 or more shall contain the following provisions, which shall be designated as the EQUAL EMPLOYMENT PRACTICES provision of such Agreement:

- A. During the performance of this Agreement, the CONTRACTOR agrees and represents that it will provide Equal Employment Practices and the CONTRACTOR and each Subcontractor hereunder will ensure that in his or her Employment Practices persons are employed and employees are treated equally and without regard to, or because of, race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.
 - 1. This provision applies to work or service performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.
3. The CONTRACTOR agrees to post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The CONTRACTOR will, in all solicitations or advertisements for employees placed by, or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

C. At the request of the Awarding Authority or the DAA, the CONTRACTOR shall certify in the specified format that he or she has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status or medical condition.

D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of his or her records pertaining to employment and to employment practices by the awarding authority or the DAA for the purpose of investigation to ascertain compliance with the Equal Employment Practices provisions of CITY Agreements. Upon request, the CONTRACTOR shall provide evidence that he or she has or will comply therewith.

E. The failure of any CONTRACTOR to comply with the Equal Employment Practices provisions of this Agreement may be deemed to be a material breach of CITY Agreements. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No such finding shall be made or penalties assessed except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.

F. Upon a finding duly made that the CONTRACTOR has failed to comply with the Equal Employment Practices provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to, and retained by, the CITY. In addition thereto, the failure to comply may be the basis for a determination by the Awarding Authority or the DAA that the said CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such a determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two years, or until the CONTRACTOR shall establish and carry out a program in conformance with the provisions hereof.

G. Notwithstanding any other provision of this Agreement, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

H. The Board of Public Works shall promulgate rules and regulations through the DAA, and provide necessary forms and required language to the Awarding Authorities to be included in CITY Request for Bids or Request for Proposal packages or in supplier registration requirements for the implementation of the Equal Employment Practices provisions of this Agreement, and

such rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish the contract compliance program.

I. Nothing contained in this Agreement shall be construed in any manner so as to require or permit any act which is prohibited by law.

J. By affixing its signature on an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the Equal Employment Practices specified herein during the performance or conduct of CITY Agreements.

K. Equal Employment Practices shall, without limitation as to the subject or nature of employment activity, be concerned with employment practices, including, but not limited to:

1. hiring practices;
2. apprenticeships where approved programs are functioning and other on-the-job training for non-apprenticeable occupations;
3. training and promotional opportunities; and
4. reasonable accommodations for persons with disabilities.

L. All CONTRACTORS subject to the provisions of this section shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY, and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Subcontracts shall follow the same thresholds specified in Section 10.8.1.1. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

16. AFFIRMATIVE ACTION PROGRAM

Every non-construction and construction Agreement with, or on behalf of, the CITY for which the consideration is \$25,000 or more shall contain the following provisions which shall be designated as the AFFIRMATIVE ACTION PROGRAM provisions of such Agreement:

A. During the performance of a CITY Agreement, the CONTRACTOR certifies and represents that the CONTRACTOR and each Subcontractor hereunder will adhere to an Affirmative Action Program to ensure that in its employment practices, persons are employed and employees are treated equally and without regard to or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

1. This section applies to work or services performed or materials manufactured or assembled in the United States.

2. Nothing in this section shall require or prohibit the establishment of new classifications of employees in any given craft, work or service category.

3. The CONTRACTOR shall post a copy of Paragraph A, hereof, in conspicuous places at its place of business available to employees and applicants for employment.

B. The CONTRACTOR shall, in all solicitations or advertisements for employees placed, by or on behalf of, the CONTRACTOR, state that all qualified applicants will receive consideration for employment without regard to their race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

C. At the request of the Awarding Authority or the DAA, the CONTRACTOR shall certify on an electronic or hard copy form to be supplied, that the CONTRACTOR has not discriminated in the performance of CITY Agreements against any employee or applicant for employment on the basis or because of race, color, religion, national origin, ancestry, sex, sexual orientation, age, disability, marital status, domestic partner status or medical condition.

D. The CONTRACTOR shall permit access to, and may be required to provide certified copies of, all of its records pertaining to employment and to its employment practices by the Awarding Authority or the DAA for the purpose of investigation to ascertain compliance with the Affirmative Action Program provisions of CITY Agreements and, upon request, to provide evidence that it has or will comply therewith.

E. The failure of any CONTRACTOR to comply with the Affirmative Action Program provisions of CITY Agreements may be deemed to be a material breach of a CITY Agreement. The failure shall only be established upon a finding to that effect by the Awarding Authority, on the basis of its own investigation or that of the DAA. No finding shall be made except upon a full and fair hearing after notice and an opportunity to be heard has been given to the CONTRACTOR.

F. Upon a finding duly made that the CONTRACTOR has breached the Affirmative Action Program provisions of a CITY Agreement, the Agreement may be forthwith cancelled, terminated or suspended, in whole or in part, by the Awarding Authority, and all monies due or to become due hereunder may be forwarded to and retained by the CITY. In addition thereto, the breach may be the basis for a determination by the Awarding Authority or the Board of Public Works that the CONTRACTOR is a non-responsible bidder or proposer pursuant to the provisions of Section 10.40 of this Code. In the event of such determination, the CONTRACTOR shall be disqualified from being awarded an Agreement with the CITY for a period of two years, or until he or she shall establish and carry out a program in conformance with the provisions hereof.

G. In the event of a finding by the Fair Employment and Housing Commission of the State of California, or the Board of Public Works of the CITY, or any court of competent jurisdiction, that the CONTRACTOR has been guilty of a willful violation of the California Fair Employment and Housing Act, or the Affirmative Action Program provisions of a CITY Agreement, there may be deducted from the amount payable to the CONTRACTOR by the CITY under the Agreement, a penalty of ten dollars for each person for each calendar day on which the person was discriminated against in violation of the provisions of a CITY Agreement.

H. Notwithstanding any other provisions of a CITY Agreement, the CITY shall have any and all other remedies at law or in equity for any breach hereof.

I. The Public Works Board of Commissioners shall promulgate rules and regulations through the DAA and provide to the Awarding Authorities electronic and hard copy forms for the implementation of the Affirmative Action Program provisions of CITY Agreements, and rules and regulations and forms shall, so far as practicable, be similar to those adopted in applicable Federal Executive Orders. No other rules, regulations or forms may be used by an Awarding Authority of the CITY to accomplish this Agreement compliance program.

J. Nothing contained in CITY Agreements shall be construed in any manner so as to require or permit any act which is prohibited by law.

K. By affixing its signature to an Agreement that is subject to this article, the CONTRACTOR shall agree to adhere to the provisions in this article for the duration of the Agreement. The Awarding Authority may also require CONTRACTORS and suppliers to take part in a pre-registration, pre-bid, pre-proposal, or pre-award conference in order to develop, improve or implement a qualifying Affirmative Action Program.

1. The CONTRACTOR certifies and agrees to immediately implement good faith effort measures to recruit and employ minority, women and other potential employees in a non-discriminatory manner including, but not limited to, the following actions as appropriate and available to the CONTRACTOR's field of work. The CONTRACTOR shall:

(a) Recruit and make efforts to obtain employees through:

(i) Advertising employment opportunities in minority and other community news media or other publications.

(ii) Notifying minority, women and other community organizations of employment opportunities.

(iii) Maintaining contact with schools with diverse populations of students to notify them of employment opportunities.

(iv) Encouraging existing employees, including minorities and women, to refer their friends and relatives.

(v) Promoting after school and vacation employment opportunities for minority, women and other youth.

(vi) Validating all job specifications, selection requirements, tests, etc.

(vii) Maintaining a file of the names and addresses of each worker referred to the CONTRACTOR and what action was taken concerning the worker.

(viii) Notifying the appropriate Awarding Authority and the DAA in writing when a union, with whom the CONTRACTOR has a collective bargaining agreement, has failed to refer a minority, woman or other worker.

(b) Continually evaluate personnel practices to assure that hiring, upgrading, promotions, transfers, demotions and layoffs are made in a non-discriminatory manner so as to achieve and maintain a diverse work force.

(c) Utilize training programs and assist minority, women and other employees in locating, qualifying for and engaging in the training programs to enhance their skills and advancement.

(d) Secure cooperation or compliance from the labor referral agency to the CONTRACTOR's contractual Affirmative Action Program obligations.

(e) Establish a person at the management level of the CONTRACTOR to be the Equal Employment Practices officer. Such individual shall have the authority to disseminate and enforce the CONTRACTOR's Equal Employment and Affirmative Action Program policies.

(f) Maintain records as are necessary to determine compliance with Equal Employment Practices and Affirmative Action Program obligations and make the records available to CITY, State and Federal authorities upon request. 9

(g) Establish written company policies, rules and procedures which shall be encompassed in a company-wide Affirmative Action Program for all its operations and Agreements. The policies shall be provided to all employees, Subcontractors, vendors, unions and all others with whom the CONTRACTOR may become involved in fulfilling any of its Agreements.

(h) Document its good faith efforts to correct any deficiencies when problems are experienced by the CONTRACTOR in complying with its obligations pursuant to this article. The CONTRACTOR shall state:

(i) What steps were taken, how and on what date.

(ii) To whom those efforts were directed.

(iii) The responses received, from whom and when.

(iv) What other steps were taken or will be taken to comply and when.

(v) Why the CONTRACTOR has been or will be unable to comply.

2. Every Agreement of \$25,000 or more which may provide construction, demolition, renovation, conservation or major maintenance of any kind shall also comply with the requirements of Section 10.13 of the Los Angeles Administrative Code.

L. The Affirmative Action Program required to be submitted hereunder and the pre-registration, pre-bid, pre-proposal or pre-award conference which may be required by the Awarding Authority shall, without limitation as to the subject or nature of employment activity, be concerned with such employment practices as:

1. Apprenticeship where approved programs are functioning, and other on-the-job training for non-apprenticeable occupations;
2. Classroom preparation for the job when not apprenticeable;
3. Pre-apprenticeship education and preparation;
4. Upgrading training and opportunities;
5. Encouraging the use of CONTRACTORS, Subcontractors and suppliers of all racial and ethnic groups; provided, however, that any Agreement subject to this ordinance shall require the CONTRACTOR, Subcontractor or supplier to provide not less than the prevailing wage, working conditions and practices generally observed in private industries in the CONTRACTOR's, Subcontractor's or supplier's geographical area for such work;
6. The entry of qualified women, minority and all other journeymen into the industry; and
7. The provision of needed supplies or job conditions to permit persons with disabilities to be employed, and minimize the impact of any disability.

M. Any adjustments which may be made in the CONTRACTOR's work force to achieve the requirements of the CITY's Affirmative Action Program in purchasing and construction shall be accomplished by either an increase in the size of the work force or replacement of those employees who leave the work force by reason of resignation, retirement or death and not by termination, layoff, demotion or change in grade.

N. This ordinance shall not confer upon the CITY or any Agency, Board or Commission thereof any power not otherwise provided by law to determine the legality of any existing collective bargaining agreement and shall have application only to discriminatory employment practices by CONTRACTORS engaged in the performance of CITY Agreements.

O. All CONTRACTORS subject to the provisions of this article shall include a similar provision in all subcontracts awarded for work to be performed under the Agreement with the CITY and shall impose the same obligations including, but not limited to, filing and reporting obligations, on the Subcontractors as are applicable to the CONTRACTOR. Failure of the CONTRACTOR to comply with this requirement or to obtain the compliance of its Subcontractors with all such obligations shall subject the CONTRACTOR to the imposition of any and all sanctions allowed by law, including, but not limited to, termination of the CONTRACTOR's Agreement with the CITY.

17. LOS ANGELES CITY CHARTER SECTION 470(c)(12)

The CONTRACTOR, Subcontractors, and their Principals are obligated to fully comply with CITY Charter Section 470(c)(12) and related ordinances, regarding limitations on campaign contributions and fundraising for certain elected CITY officials or candidates for elected CITY office if the Agreement is valued at \$100,000 or more and requires approval of a CITY elected official. Additionally, CONTRACTOR is required to comply with disclosure requirements by submitting completed and signed CEC Forms 50 and 55 and to update information to the CITY as specified by law. Any CONTRACTOR subject to Charter Section 470(c)(12), shall include the following notice in any Agreement with a subcontractor expected to receive at least \$100,000 for performance under this contract:

Notice Regarding Los Angeles Campaign Contribution and Fundraising Restrictions

As provided in Charter Section 470(c)(12) and related ordinances, you are subcontractor on CITY Agreement #_____. Pursuant to CITY Charter Section 470(c)(12), subcontractor and its principals are prohibited from making campaign contributions and fundraising for certain elected CITY officials or candidates for elected CITY office for 12 months after the CITY Agreement is signed. Subcontractor is required to provide names and addresses of the subcontractor's principals and contact information to the CONTRACTOR on the attached CEC Form 55 and shall update that information if it changes during the twelve (12) month time period. Subcontractor's information included must be provided to CONTRACTOR within five (5) business days. Failure to comply may result in termination of Agreement or any other available legal remedies include fines.

Information about the restrictions may be found at the CITY Ethics Commission's website at <http://ethics.lacity.org/> or by calling (213) 978-1960.

18. FIRST SOURCE HIRING ORDINANCE (FSHO)

Unless otherwise exempt in accordance with the provisions of this Ordinance, this Agreement is subject to the applicable provisions of the First Source Hiring Ordinance (FSHO), Section 10.44 et seq. of the Los Angeles Administrative Code, as amended from time to time.

CONTRACTOR shall, prior to the execution of the Agreement, provide to the Designated Administrative Agency a list of anticipated employment opportunities that CONTRACTOR estimates he/she will need to fill in order to perform the services under the Agreement. The Department of Public Works Office of Contract Compliance is the Designated Administrative Agency.

CONTRACTOR further pledges that it will, during the term of the Agreement, a) At least seven (7) business days prior to making an announcement of a specific employment opportunity, provide notifications of that employment opportunity to the Community Development Department (CDD), which will refer individuals for interview; b) Interview qualified individuals referred by CDD; and c) Prior to filling any employment opportunity, the CONTRACTOR shall inform the DAA of the names of the Referral Resources used, the names of the individuals they referred, the names of the referred individuals who the CONTRACTOR interviewed and the reasons why referred individuals were not hired.

Any Subcontract entered into by the CONTRACTOR relating to this Agreement, to the extent allowed hereunder, shall be subject to the provisions of FSHO, and shall incorporate the FSHO.

CONTRACTOR shall comply with all rules, regulations and policies promulgated by the designated administrative agency, which may be amended from time to time.

Where under the provisions of Section 10.44.13 of the Los Angeles Administrative Code the designated administrative agency has determined that the CONTRACTOR intentionally violated or used hiring practices for the purpose of avoiding the article, the determination must be documented in the Awarding Authority's CONTRACTOR Evaluation, required under Los Angeles Administrative Code Section 10.39 et seq., and must be documented in each of the CONTRACTOR subsequent CONTRACTOR Responsibility Questionnaires submitted under Los Angeles Administrative Code Section 10.40 et seq. This measure does not limit the CITY's authority to act under this article.

Under the provisions of Section 10.44.8 of the Los Angeles Administrative Code, the Awarding Authority shall, under appropriate circumstances, terminate this contract and otherwise pursue legal remedies that may be available if the designated administrative agency determines that the subject CONTRACTOR has violated provisions of the FSHO.

19. IRAN CONTRACTING ACT

In accordance with California Public Contract Code Sections 2200-2208, all contractors submitting proposals for, entering into, or renewing contracts with the 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."

20. ENTIRE AGREEMENT

This Agreement and all Appendices included constitute the complete Agreement between the Parties. No verbal agreement(s) or conversation(s) with any officer or employee of either party will affect or modify the terms and conditions of this Agreement.

(Signature Page to Follow)

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

Dated: _____

For: THE CITY OF LOS ANGELES

By: _____
RALPH M. TERRAZAS
Fire Chief
Los Angeles Fire Department

Dated: _____

For: BRYCER, LLC

By: _____
MATTHEW B. RICE
President

Approved as to Form:
MICHAEL N. FEUER, City Attorney

ATTEST:
HOLLY L. WOLCOTT, City Clerk

By: _____
LAUREL L. LIGHTNER
Assistant City Attorney

By: _____
Deputy City Clerk

Dated: _____

Dated: _____

City Business Tax Registration Number: _____

Internal Revenue Service Tax Identification Number: 27-4574428

Agreement Number: _____

Appendix A - Scope of Work

The Compliance Engine (“TCE”) is a *Software-As-A-Service* tool for the LAFD to track and drive code compliance, reduce false alarm activity, and provide a safer community. It provides a secure cloud environment in which the certified testers (CT) that test, and maintain fire protection systems, will submit their reports via Brycer’s TCE REG4 web portal direct to the City of Los Angeles, facilitating a more efficient review, tracking, and follow-up process with occupants to correct deficiencies/violations and maintain systems. Brycer provides a proactive service, in addition to the web-based technology, that includes hard and soft copy notifications and market education processes to help increase testing and maintenance activity in the jurisdiction. The end result is a comprehensive and accurate aggregation of data which details the types of systems, when they were last tested, and if there are any open deficiencies that could jeopardize their successful deployment in the event of an incident. With TCE, the City of Los Angeles will be better equipped to support the LAFD Fire Chiefs’ Regulation 4 mission and drive 100% code compliance with life safety system laws.

Notification Services: This is a core functionality of TCE which all of our customers find is critical in driving compliance and alleviating administrative work. Brycer will process on LAFD letterhead, print, and mail first class mail premise notifications without any administrative requirement by the LAFD. Deficiency/violation notifications will only be executed and administered by TCE REG4 upon approval from LAFD. Optional email notifications can be sent if email contact information is available. Records of all notifications will be stored in TCE REG4 and are viewable, sortable, and printable by members of the LAFD, CONTRACTOR and the CT.

Notifications include:

Renewal notification - Sent to the property for EACH life-safety system due for service by a CT. Most Authorities Having Jurisdiction (“AHJ”) have this sent out 30 days prior to the due date of the test (this is customizable). Tester of record will also have the ability to access an electronic copy of this notification. TCE REG4 works when LAFD can't be there. (Notification language will be agreed on prior to launch date)

Overdue notification - Sent to property for EACH life-safety system overdue for service based on dates automatically tracked within the TCE REG4 database. Most AHJs have this sent out 30 days past the last day of the month the system was due for service by a CT (this is customizable). Tester of record will also have the ability to access an electronic copy of this notification. TCE REG4 works when the LAFD can't be there, (Notification language will be agreed on prior to launch date)

Call Center - Phone calls by Brycer on behalf of the LAFD to the property for EACH fire protection system overdue for service based on dates automatically tracked within the TCE REG4 database. Brycer is not an agent of the CITY and all scripts for the overdue calls will be

approved by an approved LAFD official. LAFD will confirm prior to the start of operations by Brycer the number of days beyond the annual certification date the calls are to begin.

Deficiency notification - With the click of the mouse, a notification will be sent to the property with the deficiencies/violations automatically embedded into the notification, once logged by the CT and approved by LAFD. Deficiencies can be added or removed from the Deficiency notification based on the review by the fire prevention bureau's team. Tester of record will also have the ability to access an electronic copy of this notification. (Notification language will be agreed on prior to launch date)

Certified Tester Participation Services: In partnership with the LAFD, Brycer utilizes the following methods to educate the CT's participation and compliance.

- If required, assist the LAFD in amending the current code to require submission through TCE REG4 via resolution, ordinance, or fire policy.
- Email and mail announcement of LAFD's requirement of submission via TCE REG4 to the CTs that work under the LAFD Fire Chief's Regulation 4.
- Utilize our alert function to notify current registered CTs of LAFD's adoption of TCE REG4.
- Host an open house for LAFD utilizing the Fire Marshal and Brycer's support team to demo the application, educate and answer all questions.
- Leverage local and national trade shows, such as the IFIA, IFC, AFAA, NFSA, NFPA, WFCB etc. to access and educate CTs and others on the benefits of participating and complying.
- Dedicate 30% of our business developers' time to meeting with CT on a one-on-one basis to solicit and listen to their thoughts on how to improve the application to ensure a best practices model of improvements.
- Work with the Fire Prevention Bureau leader in forwarding all paper based reports to our attention. When this occurs, Brycer's customer service team will contact the CT and offer them the professional courtesy reminder that the report must be submitted through TCE REG4.
- Educating the CTs via our social media presence. We will notify CTs in this fashion the day we go live. The social media networks of Facebook, LinkedIn and Twitter are an efficient and effective manner to drive participation and compliance with the LAFD new fire policy.
- No-cost training is provided to all CTs via live on-line webinars.
- 24/7/365 customer support is provided by Brycer to all CTs.

Analytics Services: Brycer and TCE REG4 offer the LAFD more than just an online test report program. There is significant power in the data that is collected and aggregated through TCE REG4. Brycer's compliance solution application converts data into information by aggregating the data into relevant and timely analytical reports. These reports will allow the fire department to make strategic decisions, reduce risk and ultimately increase the safety of all fire department personal, residents and visitors.

Key to our reporting functionality is its infinite scope and ease of use. All data elements aggregated in TCE REG4 are available for analysis and the LAFD always has the ability to further drill down with data or tailor reports to better identify root risk management concerns or areas for improvement in fire prevention.

The integrity of statistical analysis depends on the quality of the inputs. A significant differentiating feature of TCE REG4 is the ability to generate statistics from the comprehensive and complete property profile. Because our database is populated with information direct from the LAFD's record management system we don't have to rely upon the individual CT submitting property information on a piecemeal, duplicative and, inconsistent basis. Any property that a CT submits a report for will be easy to locate via our search function. There will be no duplicates which would impact the integrity of the statistics.

Sample analytical reports include:

- **Compliance analysis report** - The compliance analysis report will quickly identify all buildings that have deficiency reports submitted to TCE REG4.
- **Past due premise report**- With the click of the mouse, the LAFD can review all life-safety systems that are past due for testing.
- **Premise profile report analysis**- The power to see the entire landscape of installed life-safety systems within the LAFD
- **Contractor analysis report**- This report indicates what fire protection contractors (FPC) and CTs are servicing the businesses in Los Angeles, which is valuable in the event issues arise with a particular FPC or CT. You will have the ability to track every property that each FPC and CT has serviced quickly and easily.
- **TESTER license tracking report**- Track and analyze this licensing information utilizing the power of TCE REG4.
- **Custom report creation** - TCE REG4 provides custom reporting capability to ensure LAFD has all the risk management and fire prevention information it needs to best service the community.

- **Monthly Dashboard Service** - TCE REG4 pushes via email a monthly summary of key indicators to LAFD and CT companies. These reports are emailed to all users to assist in driving compliance through information.

- **GIS Mapping Report** - Manage system inventory against location data

Appendix B – City of Los Angeles Standard Provisions for City Contracts

Appendix C - Brycer, LLC Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer, LLC and LAFD (the "Agreement").

1. Restrictions on Use. LAFD shall not copy, distribute, create derivative works of or modify the Solution in any way. LAFD agrees that: (a) it shall only permit its officers and employees (collectively, the "Authorized Users") to use the Solution for the benefit of LAFD; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; and (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution. LAFD is responsible for all actions taken by the Authorized Users in connection with the Solution.
2. Proprietary Rights. All right, title and interest in and to the Solution and any and all derivative works or modifications thereof (the "Derivative Works"), and any accompanying documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or Derivative Works (the "Documentation"), and any reproductions works made thereof, remain with Brycer. LAFD shall not remove any product identification or notices of such proprietary rights from the Solution. LAFD acknowledges and agrees that, except for the limited use rights established hereunder, LAFD has no right, title or interest in the Solution, the Derivative Works or the Documentation.
3. Independent Contractor. Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Each of LAFD and Brycer is an independent contractor. Neither may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.
4. Reservation of Rights. Brycer reserves the right, in its sole discretion and with prior notice to LAFD, to discontinue, add, adapt, or otherwise modify any design or specification of the Solution and/or Brycer's policies, procedures, and requirements specified or related hereto. All rights not expressly granted to LAFD are reserved to Brycer, including the right to provide all or any part of the Solution to other parties.
5. Use of Logos. During the term of this Agreement, Brycer shall have the right to use LAFD's logos for the purpose of providing the Solution to LAFD.
6. Confidential Information. Brycer and LAFD acknowledge and agree that in providing the Solution, Brycer and LAFD, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information may include, but is not limited to, the Solution, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Each party agrees that it will not, without the express prior written consent of the other party, disclose any Confidential Information or any part thereof to any third party. Confidential Information excludes information: (a) that is or becomes generally available to the public through no fault of the receiving party; (b) that is rightfully received by the receiving party from a third party without limitation as to its use; or (c) that is independently developed by receiving party without use of any Confidential Information. At the termination of this Agreement, each party will return the other party all Confidential Information of the other party. Each party also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with any Confidential Information of the other party or any firmware, circuit board or software provided therewith. Notwithstanding the foregoing, the parties acknowledge that LAFD shall be permitted to comply with any all federal and state laws concerning disclosure.
7. Brycer Warranty. Brycer represents and warrants to LAFD that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to LAFD pursuant to this Agreement.
8. Disclaimer. All information entered into Brycer's database is produced by third party inspectors and their agents. **THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY**

INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER LAFD OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7. BRYCER MAKES NO OTHER WARRANTY,

EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7. AND LAFD'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.

9. **LIMITATION ON DAMAGES.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, IN NO EVENT SHALL BRYCER BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME. LAFD ACKNOWLEDGES AND AGREES THAT IN NO CASE SHALL BRYCER 'S LIABILITY FOR ANY LOSS OF DATA OR DATA INTEGRITY EXCEED THE REPLACEMENT COST OF THE MEDIA ON WHICH THE DATA WAS STORED.

10. **Risks inherent to Internet.** LAFD acknowledges that: (a) the Internet is a worldwide network of computers, (b) communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet LAFD also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer viruses and the risk of interception, distortion, or loss of communications. LAFD assumes these risks knowingly and voluntarily and indemnifies and holds Brycer harmless from all liability from all such risks Not in limitation of the foregoing, LAFD hereby assumes the risk, and Brycer shall have no responsibility or liability of any kind hereunder, for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to LAFD; (3) LAFD's failure to timely or correctly install any updates to the LAFD Access Software; (4) problems caused by connecting or failure to connect to the internet; (5) failure to provide and maintain the technical and

connectivity configurations for the use and operation of the Solution that meet Brycer's recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under LAFD's exclusive control.

11. **Indemnity.** Each party (the "Indemnifying Party") will defend and indemnify the non-indemnifying party against any damages, losses, liabilities, causes of action, costs or expenses (including reasonable attorneys' fees) arising from the Indemnifying Party's breach of this Agreement, gross negligence or intentional misconduct. LAFD will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable attorneys' fees), claims, demands, suits or proceedings made or brought against Brycer by a third party in connection with LAFD's or an Authorized User's use of the Solution, or any action or inaction taken by a third party, including, but not limited to, third party inspectors, in connection with such third Party providing services for LAFD or otherwise at LAFD's or an Authorized User's request or direction.
12. **Breach.** Brycer shall have the right to terminate or suspend this Agreement, and all of LAFD's rights hereunder, immediately upon delivering written notice to LAFD detailing LAFD's breach of any provision of this Agreement. If LAFD cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and LAFD shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.
13. **Illegal Payments.** LAFD acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.
14. **Beneficiaries.** There are no third party beneficiaries to the Agreement.
15. **Force Majeure.** Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, blackouts, accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any

payment when due hereunder shall not be so excused.

16. Notices. All notices required in the Agreement shall be elective, (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally recognized overnight courier service, one business day after delivery.
17. Assignment. The Agreement may not be assigned or transferred by LAFD without the prior written consent of Brycer and any purported transfer in violation of this section shall be null and void. The Agreement shall be binding upon and inure to the benefit of the parties thereto and their respective successors and representatives.
18. JURISDICTION AND VENUE. THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE IN WHICH LAFD EXISTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN COURTS LOCATED WITHIN THE STATE IN WHICH LAFD EXISTS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID STATE. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRANSFER OR CHANGE VENUE OF ANY SUCH ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES WAIVE

ANY RIGHT TO TRIAL BY JURY ON ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THE AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY

19. Attorneys' Fees. The prevailing party in any proceeding in connection with the Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable attorneys' and paralegals' fees and costs incurred by such party in connection with any such proceeding.
20. Entire Agreement. The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.
21. Amendment. The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.
22. Expiration. The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement

Appendix D – Maintenance Schedule and Minimum Service Level

1. Uptime and Maintenance.

The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Client with advance notice of any unscheduled downtime.

2. Response Time.

Developer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. Customer Support

Customer support hours are 24/7/365. The toll free number is 1-855-279-2371
Brycer will assign client a dedicated customer representative with direct access to their email and work number.

Appendix E – Public Procurement Authority Master Price Agreement

Appendix F—Intergovernmental Cooperative Purchasing Agreement

PUBLIC PROCUREMENT AUTHORITY
MASTER PRICE AGREEMENT

This Master Price Agreement is effective as of the date of the last signature below (the
by and between the PUBLIC PROCUREMENT AUTHORITY or
and Brycer, LLC

RECITALS

WHEREAS, the Vendor is in the business of providing services for Inspection Testing and Maintenance Report System for Fire and Life Safety Compliance, as further described herein; and

WHEREAS, the Vendor desires to sell and the Purchaser desires to purchase certain services all upon and subject to the terms and conditions set forth herein; and

WHEREAS, Purchaser and Vendor desire to extend the terms of this Master Price Agreement to benefit other qualified participating agencies nationwide upon completion of an Intergovernmental Cooperative Purchasing Agreement;

NOW, THEREFORE, Vendor and Purchaser, intending to be legally bound, hereby agree as follows:

ARTICLE 1 – CERTAIN DEFINITIONS

1.1 Vendor.

1.2 this Agreement and Attachments A-D attached hereto and by this reference incorporated herein,

1.3 le federal, state and local laws, statutes, ordinances, codes, rules, regulations, standards, orders and other governmental requirements of any kind.

1.4 whatsoever payable in respect of (including but not limited to, taxes, social security contributions, subcontractors), as required by the Federal Social Security Act and all amendments thereto and/or any other applicable federal, state or local law.

1.5 delivery location(s) or destination(s) as Purchaser may prescribe from time to time.

1.6 and described on Attachment A hereto and incorporated herein, as may be updated from time to time by Vendor to reflect services offered by Vendor generally to its customers.

1.7 employer, in respect of, and measured by, the wages of its employees (or subcontractors) as required by any applicable federal, state or local unemployment insurance law or regulation.

1.8 is the governmental entity that issued the Request for Proposal and awarded this resulting Master Price Agreement.

1.9 which Vendor has agreed to extend the terms of this Master Price Agreement pursuant to Article 2.5 and Attachment B herein. For agreement.

ARTICLE 2 – AGREEMENT TO PROVIDE SERVICES

21 Vendor hereby agrees to provide to Purchaser such Services as Purchaser may order from time to time, all in accordance with and subject to the terms, covenants and conditions of this Agreement. Purchaser agrees to purchase those Services ordered by Purchaser in accordance with and subject to the terms, covenants and conditions of this Agreement. In order to procure the Services, a Participating Agency shall enter into a Service Level Agreement in the form attached as Attachment B detail the Services, the obligations of Vendor and the responsibilities and obligations of the Participating Agency. In the event of any conflict between the terms of this Agreement and the terms of the SLA, the terms of the SLA shall govern. Notwithstanding anything in the SLA, a non-procuring party shall not be liable in any fashion for any violation by a procuring party, and the procuring party shall hold non-procuring parties or unrelated purchasing parties harmless from any liability that may arise from action or inaction of the procuring party.

22 Notwithstanding any other provision of this Agreement to the contrary, Purchaser shall have no obligation to order or purchase any Services hereunder.

23 In case of any conflict or inconsistency between any of the Contract Documents, the documents shall prevail and apply in the following order of priority:

- (i) This Agreement;
- (ii) and
- (iii) The RFP.

24 Extension of contract terms to other qualifying participating agencies:

24.1 Pursuant to Section 1.0 of the RFP, Vendor agrees to extend the same terms, covenants and conditions available to Purchaser under this Agreement to other government agencies and non-profit entities, that have executed an Intergovernmental Cooperative Purchasing Agreement (IGA) as a Participating Agency as may be required by the government local regulations, and that wish to access this

Agreement in accordance with Attachment B which is attached hereto and incorporated herein by reference. Each Participating Agency will be exclusively responsible for and deal directly with Vendor on matters relating to ordering, delivery, inspection, acceptance, invoicing, and payment for Services in accordance with the terms and conditions of this Agreement as if it were hereunder. Any disputes between a Participating Agency and Vendor will be resolved directly between them under and in accordance with the laws of the State in which the Participating Agency exists. Pursuant to the IGA, the PPA shall not incur any liability as a result of the access and utilization of this Agreement by other Participating Agencies.

- 242 *This Solicitation meets the public contracting requirements of the Purchaser and may not be appropriate under or meet Participating Agencies' procurement laws. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local and state solicitation requirements.*

2.5 Oregon Public Agencies are prohibited from use of services offered under this contract that are already provided by qualified nonprofit agencies for disabled individuals as listed on the Department of Administrative Procurement List pursuant to ORS 279.835-.855. See www.OregonRehabilitation.org/qrf for more information. Vendor shall not sell services identified on the Procurement List (e.g., reconditioned toner cartridges) to Purchaser or Participating Agencies within the state of Oregon or to public institutions in other states with similar restrictions.

ARTICLE 3 – TERM AND TERMINATION

3.1 The initial contract term shall be for three (3) calendar years from the effective date of this Agreement. Upon termination of the original three (3) year term, this Agreement shall extend for up to five (5) successive three (3) year periods unless terminated by either of the parties at least ninety (90) days prior to the expiration of the then current term.

3.2 Either party may terminate this Agreement by written notice to the other party if the other party breaches any of its obligations hereunder and fails to remedy the breach within thirty (30) days after receiving written notice of such breach from the non-breaching party.

ARTICLE 4 – PRICING, INVOICES, PAYMENT AND DELIVERY

4.1 Purchaser shall pay Vendor for all Services ordered and delivered in compliance with the terms and conditions of this Agreement on the terms and at the pricing specified for each such Service on Attachment A. Unless Attachment A expressly provides otherwise, the pricing schedule for Services set forth on Attachment A hereto shall remain fixed for the entire term of the Agreement. Pricing contained in Attachment A shall be extended to all participating agencies upon execution of the IGA.

4.2 If any amounts are due to Vendor by Purchaser, Vendor shall submit original invoices to Purchaser in form and substance and format reasonably acceptable to Purchaser. All amounts for Services purchased during the applicable invoice period and any other information

reasonably requested by Purchaser, and must otherwise comply with the provisions of this Agreement and such reasonable requirements as may be prescribed by Purchaser from time to time. Invoices shall be addressed as directed by Purchaser.

43 Attachment A proposal shall specify all taxes and duties of any kind which Vendor is required to pay with respect to the sale of Services covered by this Agreement.

44 Except as specifically set forth on Attachments A Purchaser shall not be responsible for any additional costs or expenses of any nature incurred by Vendor in connection with the Services, including without limitation travel expenses, clerical or extent that Attachment A expressly requires Purchaser to reimburse Vendor for Incidental Expenses, and notwithstanding anything else set forth in this Agreement, including Attachment A, Purchaser shall not be responsible for any such reimbursement unless the expenses to be reimbursed are (i) approved, in each instance, in advance by Purchaser; and (ii) substantiated by appropriate receipts and related documentation. It is acknowledged and agreed that Purchaser may, as a condition of its approval of any such Incidental Expense reimbursement, require in each instance Vendor to utilize suppliers or service providers prescribed by Purchaser, which may include suppliers or service providers which are affiliated with Purchaser.

45 Price reductions or discount increases may be offered at any time during the contract term and shall become effective upon notice of acceptance from Purchaser.

ARTICLE 5 – INSURANCE

5.1 During the term of this Agreement, Vendor shall maintain at its own cost and expense (and shall cause any subcontractor to maintain) insurance policies providing insurance of the kind and in the amounts generally carried by reasonably prudent companies in the industry, with one or more reputable insurance companies licensed to do business in Oregon and any other state or jurisdiction where Services are sold hereunder. Such certificates of insurance shall be made available to the PPA upon 48 hours notice. BY SIGNING THE AGREEMENT PAGE THE VENDOR AGREES TO THIS REQUIREMENT AND FAILURE TO MEET THIS REQUIREMENT WILL RESULT IN CANCELLATION OF THIS MASTER PRICE AGREEMENT.

52 All insurance required herein shall be maintained in full force and effect until all work or service required to be performed under the terms of this Agreement is satisfactorily completed and formally accepted. Any failure to comply with the claim reporting provisions of the insurance policies or any breach of an insurance policy warranty shall not affect coverage afforded under the insurance policies to protect the Public Procurement Authority. The insurance policies may provide coverage that contains deductibles or self-insured retentions. Such deductible and/or self-insured retentions shall not be applicable with respect to the coverage provided to the Public Procurement Authority under such policies. Vendor shall be solely responsible for the deductible and/or self-insured retention and the Public Procurement Authority, at its option, may require Vendor to secure payment of such deductibles or self-insured retentions by a surety bond or an irrevocable and unconditional letter of credit.

53
imposed by federal and state statutes having jurisdiction over employees engaged in

the performance of the work or services, as well as Liability insurance. Vendor waives all rights against the Public Procurement Authority and its agents, officers, directors and employees for recovery of damages to the extent these damages are covered by the Compensation and Liability or commercial umbrella liability insurance obtained by Vendor pursuant to this agreement.

54 Insurance required herein shall not be permitted to expire, be canceled, or materially changed without thirty days (30-days) prior written notice to the Public Procurement Authority.

ARTICLE 6 – WARRANTIES

Purchaser shall refer to Vendor Proposal for all Vendor and manufacturer express warranties.

ARTICLE 7 – SUBSTITUTIONS

Except as otherwise permitted hereunder, Vendor may not make any substitutions of services or any portion thereof, of any kind without the prior written consent of Purchaser.

ARTICLE 8 - COMPLIANCE WITH LAWS

8.1 and maintain in full force during the term of this Agreement, all licenses, permits, approvals, authorizations, registrations and certificates, if any, required by Applicable Laws in connection to Purchaser copies of any or all such licenses, permits, approvals, authorizations, registrations and certificates.

8.2 Purchaser has taken all required governmental action to authorize its execution of of this Agreement or performance of its obligations hereunder.

ARTICLE 9 – PUBLICITY / CONFIDENTIALITY

9.1 No news releases, public announcements, advertising materials, or confirmation of same, concerning any part of this Agreement shall be issued or made without the prior written approval of the parties. Neither party shall in any advertising, sales materials or in any other way use any of the names or logos of the other party without the prior written approval of the other party.

9.2 Any knowledge or information which Vendor or any of its affiliates shall have disclosed or may hereafter disclose to Purchaser, and which in any way relates to the Services covered by this Agreement shall not, unless otherwise designated by Vendor, be deemed to be confidential or proprietary information, and shall be acquired by Purchaser, free from any restrictions, as part of the consideration for this Agreement.

ARTICLE 10 - RIGHT TO AUDIT

Subject to Vendor reasonable security and confidentiality procedures, Purchaser, or any third party retained by Purchaser, may at any time upon prior reasonable notice to Vendor, during normal business hours, audit the books, records and accounts of Vendor to the extent that such books, records and accounts pertain to sale of any Services hereunder or otherwise relate to the performance of this Agreement by Vendor. Vendor shall maintain all such books, records and accounts for a period of at least three (3) years after the date of expiration or termination of this Agreement. The right to audit under this Article 11 and rights hereunder shall survive the expiration or termination of this Agreement for a period of three (3) years after the date of such expiration or termination.

ARTICLE 11 - REMEDIES

Except as otherwise provided herein, any right or remedy of Vendor or Purchaser set forth in this Agreement shall not be exclusive, and, in addition thereto, Vendor and Purchaser shall have all rights and remedies under applicable law, including without limitation, equitable relief. The provisions of this Article shall survive the expiration or termination of this Agreement.

ARTICLE 12 - RELATIONSHIP OF PARTIES

Vendor is an independent contractor and is not an agent, servant, employee, legal representative, partner or joint venturer of Purchaser. Nothing herein shall be deemed or construed as creating a joint venture or partnership between Vendor and Purchaser. Neither party has the power or authority to bind or commit the other.

ARTICLE 13 - NOTICES

All notices required or permitted to be given or made in this Agreement shall be in writing. Such notice(s) shall be deemed to be duly given or made if delivered by hand, by certified or registered mail or by nationally recognized overnight courier to the address specified below:

If to Purchaser:

Public Procurement Authority
25030 SW Parkway Ave.
Suite 330
Wilsonville OR 97070
ATTN: Heidi Chames

If to Vendor:

Brycer, LLC
4355 Weaver Parkway
Suite 100
Warrenville IL 60555
ATTN: Matthew Rice

Either party may change its notice address by giving the other party written notice of such change in the manner specified above.

ARTICLE 14 - FORCE MAJEURE

Delay in performance or non-performance of any obligation contained herein shall be excused to the extent such failure or non-performance is caused by force majeure. For purposes of this Agreement, shall mean any cause or agency preventing performance of an obligation which is beyond the reasonable control of either party hereto, including without limitation, fire, flood, sabotage, shipwreck, embargo, strike, explosion, labor trouble, accident, riot, acts of governmental authority (including, without limitation, acts based on laws or regulations now in existence as well as those enacted in the future), acts of God, and delays or failure in obtaining raw materials, supplies or transportation. A party affected by force majeure shall promptly provide notice to the other, explaining the nature and expected duration thereof, and shall act diligently to remedy the interruption or delay if it is reasonably capable of being remedied. In the event of a force majeure situation, deliveries or acceptance of deliveries that have been suspended shall not be required to be made upon the resumption of performance.

ARTICLE 15 - WAIVER

No delay or failure by either party to exercise any right, remedy or power herein shall impair such right to exercise such right, remedy or power or be construed to be a waiver of any default or an acquiescence therein; and any single or partial exercise of any such right, remedy or power shall not preclude any other or further exercise thereof or the exercise of any other right, remedy or power. No waiver hereunder shall be valid unless set forth in writing executed by the waiving party and then only to the extent expressly set forth in such writing.

ARTICLE 16 - PARTIES BOUND; ASSIGNMENT

This Agreement shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties hereto, but it may not be assigned in whole or in part by Vendor without the prior written consent of Purchaser which shall not be unreasonably withheld or delayed. Vendor shall not delegate its duties under this Agreement nor assign monies due or to become due to it hereunder without prior written consent of Purchaser. Purchaser may freely assign this Agreement to an instrumentality thereof or to a third party responsible for administering this Agreement on behalf of Purchaser.

ARTICLE 17 - SEVERABILITY

To the extent possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement is declared invalid or unenforceable, by judicial determination or otherwise, such provision shall not invalidate or render unenforceable the entire Agreement, but rather the entire Agreement shall be construed as if not containing the particular invalid or unenforceable provision or provisions and the rights and obligations of the parties shall be construed and enforced accordingly.

ARTICLE 18 - INCORPORATION; ENTIRE AGREEMENT

18.1 All the provisions of the Attachments hereto are hereby incorporated herein and made a part of this Agreement. In the event of any apparent conflict between any provision set forth in the main body of this Agreement and any provision set forth in the Attachments, possible, as if they do not conflict.

18.2 This Agreement (including Attachments and Contract Documents hereto) constitutes the entire agreement of the parties relating to the subject matter hereof and supersedes any and all prior written and oral agreements or understandings relating to such subject matter.

ARTICLE 19 - HEADINGS

Headings used in this Agreement are for convenience of reference only and shall in no way be used to construe or limit the provisions set forth in this Agreement.

ARTICLE 20 - MODIFICATIONS

This Agreement may be modified or amended only in writing executed by both parties hereto.

ARTICLE 21 - GOVERNING LAW

This Agreement shall be governed by and interpreted in accordance with the laws of the state of Oregon or in the case of a Participating use of this agreement, the laws of the state in which the Participating Agency exists, without regard to its choice of law provisions.

ARTICLE 22 - COUNTERPARTS

This Agreement may be executed in counterparts all of which together shall constitute one and the same Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year last written below.

PURCHASER:


Signature: 

Printed Name: Jeffrey D. Johnson

Title: Administrator
Public Procurement Authority

Dated: August 21, 2014

VENDOR:

Signature: 

Printed Name: Matthew B. Rice

Title: President
Brycer LLC

Dated: August 20, 2014

ATTACHMENT A

to Master Price Agreement by and between **VENDOR** and **PURCHASER**.

STATEMENT OF WORK

STATEMENT OF WORK FOR PUBLIC PROCUREMENT AUTHORITY

P
P
A

BRYCER, LLC
4355 Weaver Parkway, Suite 100
Warrenville, IL 60555
Work #: 630-413-9511
Work # 855-279-2371
Email: info@mybrycer.com



1. Scope of Work

The Compliance Engine (TCE) is a simple, internet based tool for the AHJ to track and drive code compliance, reduce false alarm activity, and provide a safer community. It provides a secure cloud environment in which third party contractors that inspect, test, and maintain fire protections systems can submit their reports via Brycer's web portal direct to the AHJ, facilitating a more efficient review, tracking, and follow-up process with occupants to correct deficiencies and maintain systems. Brycer also provides a proactive service, in addition to the web-based technology, that includes hard and soft copy notifications sent to building owners and/or property managers to help increase testing and maintenance activity within the AHJ. The end result is a comprehensive and accurate aggregation of data around which buildings have what types of systems, when they were last tested, and if there are any open deficiencies that could jeopardize their successful deployment in the event of an incident. With The Compliance Engine, the AHJ will be better equipped in their mission to drive 100% code compliance with life safety laws.

2. Deliverables

Customer Service: For the AHJ, Brycer will provide a dedicated account representative, implementation specialist, technology resource and full access to the Brycer customer service team. Services include, but are not limited to:

- Data migration service – Fully map the AHJ's commercial building premise data into TCE to ensure data integrity with current operating system(s)
- Payment Processing – Brycer will electronically charge, collect, and process all fees from ITM submissions associated with The Compliance Engine
- Training – AHJ will be afforded training by a implementation specialist, and ongoing training is provided at no-charge to the AHJ
- Customer support is available 24/7/356 provided at no-charge to the AHJ. Our toll free number is 855-279-2371
- Brycer shall respond to telephone calls from AHJ within two hours of the call and/or message and all emails from AHJ within two hours of the receipt of the email.

Inspection, Testing & Maintenance Reporting: Utilizing our proprietary, customized, secure, and revolutionary web-based application, The Compliance Engine. TCE will track and maintain all life-safety inspection testing & maintenance reports completed for properties located within the AHJ's jurisdiction. TCE will allow your department to administer compliance with your adopted fire prevention codes at no-cost to the fire prevention bureau.

Life safety system types for which reports may be submitted include but are not limited to:

- Fire Alarm Systems
- Automatic Sprinkler Systems
- Commercial Hood Cleaning
- Commercial Hood Suppression System
- Standpipe System
- Active Smoke Control System
- Special Suppression (Clean Agent)
- Private Hydrant System
- Fire Pump
- Emergency Generator
- Foam System

TCE will accept submission of reports on an annual, semi-annual, quarterly, monthly, weekly and daily basis. Submission requirements are based on current and future adopted code requirements.

Features and functionality of TCE include, but are not limited to:

- Electronically receive inspection, testing and maintenance reports for all life-safety systems within jurisdiction;
- Ensure only licensed contractors and inspectors are inspecting and servicing your constituents;
- Manage all life-safety system testing reports from one simple web-based **dashboard**;
- Geocoded mapping of all premises within the AHJ labeled as deficient or compliant
- Customized AHJ portal within TCE
- Email fire and life safety system impairment notification – AHJ will receive an email for any reported system impairment within the AHJ;
- Continuous system premise profile update – tracked and updated by contractor of record; and,
- Complete record of all contractors working within your jurisdiction.

Notification Services: Brycer will process, print, and mail first class all property notifications without any administrative requirement by your department, on fire department letterhead. Optional email notifications can be sent if contact information is available. Records of all notifications will be stored in TCE viewable, sortable & printable by members of your team and the contractor of record.

Notifications include:

Renewal notification – Sent to the property for EACH life-safety system due for service by a licensed contractor. Contractor of record will have access to a copy of this notice within TCE.

Overdue notification – Sent to property for EACH life-safety system overdue for service, based on dates automatically tracked within the TCE database. Contractor of record will have access to a copy of this notice within TCE.

Deficiency notification – With the click of the mouse by the AHJ, a notification will be mailed to the property with the deficiencies automatically embedded into the notification logged by the licensed contractor and approved by the fire prevention official. Deficiencies can be added or removed based on the review by the fire code official's team. Contractor of record will have access to a copy of this notice within TCE.

Analytics Services: Brycer and The Compliance Engine offer the AHJ more than just an online inspection report application. There is significant power in the data that is collected and aggregated through the reports submitted for the entire premise profile. Brycer's compliance solution application converts data into information by aggregating the data into relevant and timely analytical reports. These reports will allow the fire department to make strategic decisions and ultimately increase the safety of all fire department personal, residents and visitors.

Sample analytical reports include:

- **Compliance analysis report** –The compliance analysis report will quickly identify all buildings that have deficiency reports submitted to TCE.
- **Past due premise report-** With the click of the mouse, the AHJ can review all life-safety apparatuses that are past due for inspection & testing.
- **Premise profile report analysis-** The power to see the entire landscape of installed life-safety systems within the AHJ.
- **Contractor analysis report-** This report indicates what fire protection contractors and inspectors are servicing the businesses in your jurisdiction. You will have the ability to track every business that each firm and inspector has serviced quickly and easily.
- **Inspector license tracking report-** Are all the contractors working in AHJ's jurisdiction properly licensed? Track and analyze this licensing information utilizing the power of TCE.
- **Custom report creation** – Because of the process used to match our premise data with your current operating systems, we have the ability to create customized reports within 24 hours to ensure the AHJ has all the risk management and fire prevention information it needs to best service the community.

Please Note: All reports are exportable, printable, and can be emailed directly out of TCE by a secure verified AHJ user.

Hosting & Security Service: Brycer understands that the confidentiality, integrity, and availability of the AHJ's information are vital to your business operations and the success of our partnership. We use a multi-layered approach to protect all information, constantly monitoring and improving our application, systems, and processes to meet the growing demands and challenges of security.

With zero hardware or software to purchase, Brycer will provide full hosting services for all data submitted by fire protection contractors and the AHJ. Hosting and security services include:

- Secure transmission and sessions (SSL encrypted)
- Network protection (firewalls, 3rd party verification, hacker prevention, verification)
- Password protected entry
- Disaster recovery (multiple backups)
- Internal and 3rd party testing and assessments
- Security monitoring
- Secure data centers (our service is collocated in dedicated spaces at top-tier data centers)
- Unlimited mobile access from any internet connected device
- Continuous, real-time, automatic data backup

Contractor Support: In partnership with the AHJ, Brycer utilizes the following methods to encourage the ITM's participation and compliance.

- Email and mail announcement of AHJ's requirement of submission via TCE to ITM contractors registered with the state and working within your jurisdiction. This list has been developed by Brycer and is proprietary to our organization
- Utilize our alert function to notify current ITMs registered in TCE of AHJ's adoption of TCE.
- Host a webinar for contractors in AHJ jurisdiction utilizing the Fire Marshal and Brycer support team to demo the application, educate and answer all questions.
- Leverage local and national trade show such as the IFIA, IFC, AFAA, NFSA, NFPA, etc. to access and educate ITMs on the benefits of participating and complying.
- Dedicated contractor liaison focused on meeting with ITMs on a one-on-one basis to solicit and listen to their thoughts on how to improve the application to ensure a win-win for ITM and AHJ. To date, our success with ITMs complying with report submission has been 99.98%.
- Work with the AHJ leader in forwarding all paper based reports to our attention. When this occurs, Brycer's customer service team will contact the ITM and offer them the professional courtesy reminder that the report must be submitted through TCE. Brycer's communication with ITMs is effective 90% of the time, and the other 10% we enlist our partner at the AHJ to make a phone call.
- Educating the ITMs via our expansive social media presence. We will notify ITMs in this fashion the day we go live with our customers. The social media networks of Facebook, LinkedIn and Twitter are leveraged.

3. Responsibilities

Brycer Responsibilities: During the Term, Brycer shall be responsible for the following in connection with AHJ's use of the Solution:


- **Availability.** TCE shall be available 24 hours per day on each business day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by AHJ at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide AHJ with advance notice of any unscheduled downtime.
- **Service Level.** Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with AHJ and access the Solution.
- **Data Backup.** Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by AHJ or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to AHJ a complete and secure (i.e. encrypted and appropriately authenticated) download file of AHJ data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of AHJ data. Brycer shall not (a) modify AHJ data or (b) disclose AHJ data except as required by law.
- **Retention of Information.** Brycer will maintain live all information entered into the database by third party inspectors for at least five (5) years from the time such information is entered into the database. All data older than five (5) years will be archived and available within 24 hours of request by the AHJ.
- **Notices.** Brycer will be responsible for administering, generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due; (b) notices that an inspection is past due; (c) notices of completed inspection reports which contain one or more deficiencies; and (d) certificates of good working order.
- **Updates and Enhancements.** In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly notify and provide such updates or corrections to AHJ.

AHJ Responsibilities: During the Term, AHJ shall be responsible for the following in connection with AHJ's use of the Solution:

- **Operating System.** The AHJ shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution installed on the AHJ's equipment (the "AHJ Access Software") and for the installation of network connections to the Internet. In addition to any other AHJ Access Software requirements, AHJ must use version Internet Explorer 7.0, Firefox version 3, Chrome 2 or Safari 4 (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.

- **Training.** AHJ shall allow Brycer at AHJ's facilities to train all applicable personnel of AHJ on the use of the Solution.
- **Information.** AHJ shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within [jurisdiction] for Brycer's initial upload; and (b) ongoing updates to in a format acceptable to Brycer in its discretion.
- **Enforcement.** AHJ shall take all actions necessary to require in writing (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
- **Reports.** AHJ will require all compliant and deficient test results to be submitted through The Compliance Engine, by third party contractors.
- **Contact.** The AHJ shall assign a TCE champion to coordinate communication in partnership with Brycer.

4. Pricing

BRYCER PRICING MODEL			
 BRYCER			
System Type	Submittal Frequency	Pricing	Annual Total
Automatic Fire Sprinkler System (Dry, Wet, Preaction/Deluge, Foam can be combined)	Annual, Quarterly, Monthly	\$10.00	\$10.00
Fire Alarm System	Annual, Quarterly, Monthly	\$10.00	\$10.00
Commercial Hood Cleaning	Annual, Quarterly, Monthly	\$10.00	\$10.00
Commercial Kitchen Hood Suppression System	Semi-Annual	\$10.00	\$20.00
Commercial Kitchen Hood Suppression System (cooking only once per week)	Annual	\$10.00	\$10.00
Standpipe	Annual	\$10.00	\$10.00
Active Smoke Control System	Annual	\$10.00	\$10.00
Private Hydrant System	Annual	\$10.00	\$10.00
Fire Pump	Annual, Quarterly, Monthly	\$10.00	\$10.00
Spray Booth	Annual	\$10.00	\$10.00
Emergency Generator	Annual	\$10.00	\$10.00
Special Suppression System	Annual	\$10.00	\$10.00
Fire Escape	Annual	\$10.00	\$10.00
Life Safety Evaluations (LSE)	Annual	\$10.00	\$10.00

Collection of Inspection Fees: Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution, which may be amended from time to time upon the written agreement of Brycer and AHJ.

ATTACHMENT B

to Master Price Agreement by and between VENDOR and PURCHASER.

PARTICIPATING AGENCIES

Purchaser served as the Lead Contracting Agency and on behalf of other government agencies that desire to access the Master price Agreement. Vendor must deal directly with any Participating Agency concerning the placement of orders, issuance of the purchase orders, contractual disputes, invoicing, and payment. The Purchaser is acting as "Lead Contracting Agency" for the Participating Agencies and shall not be held liable for any costs, damages, etc., incurred by any Participating Agency.

The subsequent contract shall be construed to be in accordance with and governed by the laws of the state in which the Participating Agency exists. Each Participating Agency is required to execute an Intergovernmental Cooperative Purchasing Agreement as set forth on Brycer, LLC website, www.thecomplianceengine.com and a Service Level Agreement that is included as part of this Attachment B. The IGA allows the Participating Agency to purchase Services from the Vendor in accordance with each Participating legal requirements.

Re: “The Compliance Engine”

Exhibit A. The basic terms are as follows:

- Following the expiration or termination of the Term (as provided in the Terms and Conditions), Client shall stop using the Solution; provided, however, Brycer shall make available, and Client shall have the right to download, data from the Solution for a period of 60 days after the expiration or termination of the Term. Client shall have the right to terminate this agreement upon giving 90 days written notice to Brycer.

- written agreement of Brycer and Client. The Certification Fee shall be determined by Client. Brycer will charge Client a processing fee of 6.5% for collecting Certification Fees for life safety systems on behalf of Client. Brycer will remit payment to Client on a quarterly basis.

- **Availability.** Brycer shall make the Solution available to Client as set forth on Exhibit B. The maintenance schedule and minimum service levels for the Solution are set forth on Exhibit B.

- **Service Level.** Brycer shall provide commercially reasonable levels of customer service with respect to the Solution to all third parties who transact business with Client and access the Solution.
 - **Backup.** Brycer shall backup the database used in connection with the Solution to a separate server located within the same web hosting firm which the Solution is being hosted on a real time basis. Upon request by Client (which can be no more than once a month) or made prior to or within 60 days after the effective date of termination of the Term, Brycer will make available to Client a complete and secure (i.e. encrypted and appropriately authenticated) download file of Client data in XML format including all schema and attachments in their native format. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Client data. Brycer shall not (a) modify Client data or (b) disclose Client data except as required by law.
 - **Retention of Information.** Brycer will maintain all information entered into the database by third party inspectors for at least five (5) years from the time such information is entered into the database.
 - **Notices.** Brycer will be responsible for generating and delivering the following notices to third parties in connection with the Solution: (a) reminders of upcoming inspections that are due; (b) notices that an inspection is past due; and (c) notices of completed inspection reports which contain one or more deficiencies.
 - **Call Center.** Brycer may make phone calls on behalf of the Client to the property and/or the service provider for all fire and life-safety systems overdue for service and/or with open violations on dates automatically tracked within the database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.
 - **Updates and Enhancements.** In the event Brycer releases any updates, corrections, or enhancements to the Solution during the Term, Brycer shall promptly provide such updates or corrections to Client free of any charge or fee.
4. **Client Responsibilities:** During the Term, Client shall be responsible for the following in connection with use of the Solution:
- **Operating System.** Client shall be solely responsible for providing a proper operating environment, including computer hardware or other equipment and software, for any portion of the Solution equipment and for the installation of network connections to the Internet. In addition to any other Client Access Software requirements, Client must use version Internet Explorer 7.0, Firefox version 3, Chrome 2 or Safari 4 (or more recent versions), in addition to having a .pdf reader installed on machines to view attachments.
 - **Training** of Client on the use of the Solution.
 - **Information.** Client shall promptly provide Brycer with all appropriate information necessary for Brycer to create the database for the Solution, including without limitation: (a) all commercial building addresses within [jurisdiction] initial upload; and (b) quarterly updates to in a format acceptable to Brycer in its discretion.
 - **Enforcement.** Client shall take all actions necessary to require in writing (e.g. resolution, ordinance, fire policy, code amendment) the use of the Solution by third party inspection companies.
 - **Reports.** Client will require all compliant and deficient test results to be submitted.
5. **Ownership of Data.** Client owns all the data provided by Client and received from third party contractors for Client. Brycer shall maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of data.

Please acknowledge your acceptance of this proposal and our standard Terms and Conditions by counter-signing this proposal below. We look forward to a long-term and mutually beneficial relationship with you.

Brycer, LLC

Acknowledged and Agreed to this
____ day of _____, 20____:

[CLIENT]

By: _____
Its: _____

By: _____
Its: _____

Exhibit A

Terms and Conditions

Any capitalized terms not defined in these Terms and Conditions shall have the meaning assigned to it in that certain Letter Agreement attached hereto by and between Brycer, LLC and Client (the

1. **Restrictions on Use.** Client shall not copy, distribute, create derivative works of or modify the Solution in any way. Client agrees that: (a) it shall only permit its officers and employees (collectively, the Solution for the benefit of Client; (b) it shall use commercially reasonable efforts to prevent the unauthorized use or disclosure of the Solution; (c) it shall not sell, resell, rent or lease the Solution; (d) it shall not use the Solution to store or transmit infringing or otherwise unlawful or tortious material, or to store or transmit material in violation of third party rights; (e) it shall not interfere with or disrupt the integrity or performance of the Solution or third-party data contained therein; and (f) it shall not reverse engineer, translate, disassemble, decompile or otherwise attempt to create any source code which is derived from the Solution. Client is responsible for all actions taken by the Authorized Users in connection with the Solution.
2. **Proprietary Rights.** All right, title and interest in and to the Solution and any and all derivative works or modifications documentation, manuals or other materials used or supplied under this Agreement or with respect to the Solution or and any reproductions works made thereof, remain with Brycer. Client shall not remove any product identification or notices of such proprietary rights from the Solution. Client acknowledges and agrees that, except for the limited use rights established hereunder, Client has no right, title or interest in the Solution, the Derivative Works or the Documentation.
3. **Independent Contractor.** Nothing in the Agreement may be construed or interpreted as constituting either party hereto as the agent, principal, employee or joint venturer of the other. Each of Client and Brycer is an independent contractor. Neither may assume, either directly or indirectly, any liability of or for the other party. Neither party has the authority to bind or obligate the other party and neither party may represent that it has such authority.
4. **Reservation of Rights.** Brycer reserves the right, in its sole discretion and with prior notice to Client, to discontinue, add, adapt, or otherwise modify any design or specification of the specified or related hereto. All rights not expressly granted to Client are reserved to Brycer, including the right to provide all or any part of the Solution to other parties.
5. **Use of Logos.** During the term of this Agreement, Brycer shall logos for the purpose of providing the Solution to Client.
6. **Confidential Information.** Brycer and Client acknowledge and agree that in providing the Solution, Brycer and Client, as the case may be, may disclose to the other party certain confidential, proprietary trade secret information ("Confidential Information"). Confidential Information may include, but is not limited to, the Solution, computer programs, flowcharts, diagrams, manuals, schematics, development tools, specifications, design documents, marketing information, financial information or business plans. Each party agrees that it will not, without the express prior written consent of the other party, disclose any Confidential Information or any part thereof to any third party. Confidential Information excludes information: (a) that is or becomes generally available to the public through no fault of the receiving party; (b) that is rightfully received by the receiving party from a third party without limitation as to its use; or (c) that is independently developed by receiving party without use of any Confidential Information. At the termination of this Agreement, each party will return the other party all Confidential Information of the other party. Each party also agrees that it shall not duplicate, translate, modify, copy, printout, disassemble, decompile or otherwise tamper with any Confidential Information of the other party or any firmware, circuit board or software provided therewith. Notwithstanding the foregoing, the parties acknowledge that Client shall be permitted to comply with any all federal and state laws concerning disclosure.
7. **Brycer Warranty.** Brycer represents and warrants to Client that Brycer has all rights necessary in and to any patent, copyright, trademark, service mark or other intellectual property right used in, or associated with, the Solution, and that Brycer is duly authorized to enter into this Agreement and provide the Solution to Client pursuant to this Agreement.
8. **Disclaimer.** All information entered into database is produced by third party inspectors and their agents. **THEREFORE, BRYCER SPECIFICALLY DISCLAIMS ANY REPRESENTATION OR WARRANTY AS TO THE ACCURACY OR COMPLETENESS OF ANY INFORMATION ENTERED INTO BRYCER'S DATABASE BY EITHER CLIENT OR THIRD PARTY INSPECTORS. EXCEPT AS SET FORTH IN SECTION 7, BRYCER MAKES NO OTHER WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SOLUTION OR ANY OTHER INFORMATION AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ARE HEREBY DISCLAIMED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. BRYCER'S SOLE LIABILITY FOR BREACH OF THE REPRESENTATION AND WARRANTY SET FORTH IN SECTION 7, AND CLIENT'S SOLE REMEDY, SHALL BE THAT BRYCER SHALL INDEMNIFY AND HOLD RECIPIENT HARMLESS FROM AND AGAINST ANY LOSS, SUIT, DAMAGE, CLAIM OR DEFENSE ARISING OUT OF BREACH OF THE REPRESENTATION AND WARRANTY.**
9. **LIMITATION ON DAMAGES.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 7, IN NO EVENT SHALL BRYCER BE LIABLE FOR OR OBLIGATED IN ANY MANNER FOR SPECIAL, CONSEQUENTIAL, OR INDIRECT DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF USE, LOSS OF PROFITS OR SYSTEM DOWNTIME. CLIENT ACKNOWLEDGES AND AGREES THAT IN NO CASE SHALL BRYCER'S LIABILITY FOR ANY LOSS OF DATA OR DATA INTEGRITY EXCEED THE REPLACEMENT COST OF THE MEDIA ON WHICH THE DATA WAS STORED.
10. **Risks Inherent to Internet.** Client acknowledges that: (a) the Internet is a worldwide network of computers, (b) communication on the Internet may not be secure, (c) the Internet is beyond the control of Brycer, and (d) Brycer does not own, operate or manage the Internet. Client also acknowledges that there are inherent risks associated with using the Solution, including but not limited to the risk of breach of security, the risk of exposure to computer viruses and the risk of interception, distortion, or loss of communications. Client assumes these risks knowingly and voluntarily and indemnifies and holds Brycer harmless from all liability from all such risks. Not in limitation of the foregoing, Client hereby assumes the risk, and

Brycer shall have no responsibility or liability of any kind hereunder, for: (1) errors in the Solution resulting from misuse, negligence, revision, modification, or improper use of all or any part of the Solution by any entity other than Brycer or its authorized representatives; (2) any version of the Solution other than the then-current unmodified version provided to Client; (3) Client's failure to timely or correctly install any updates to the Client Access Software; (4) problems caused by connecting or failure to connect to the Internet; (5) failure to provide and maintain the technical and connectivity configurations for the use and operation of the Solution that meet recommended requirements; (6) nonconformities resulting from or problems to or caused by non-Brycer products or services; or (7) data or data input, output, accuracy, and suitability, which shall be deemed under exclusive control.

11. Indemnity will defend and indemnify the non-indemnifying party against any damages, losses, liabilities, causes of action, costs or expenses (including from the Indemnifying

intentional misconduct. Client will defend and indemnify Brycer against any damages, losses, liabilities, costs or expenses (including reasonable fees), claims, demands, suits or proceedings made or brought against Brycer by a third party in Authorized

Solution, or any action or inaction taken by a third party, including, but not limited to, third party inspectors, in connection with such third party providing services for Client or Authorized or direction

12. Breach. Brycer shall have the right to terminate or suspend this rights hereunder, immediately upon delivering written breach of any provision of this Agreement. If Client cures such breach within 5 days of receiving written notice thereof, Brycer shall restore the Solution and Client shall pay any fees or costs incurred by Brycer in connection with the restoration of the Solution.

13. Illegal Payments. Client acknowledges and agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift or anything of value from any employee or agent of Brycer in connection with the Agreement.

14. Beneficiaries. There are no third party beneficiaries to the Agreement.

15. Force Majeure. Neither party shall be responsible for any failure to perform due to unforeseen, non-commercial circumstances beyond its reasonable control, including but not limited to acts of God, war, riot, embargoes, acts of civil or military authorities, fire, floods, earthquakes, blackouts, accidents, or strikes. In the event of any such delay, any applicable period of time for action by said party may be deferred for a period of time equal to the time of such delay, except that a party's failure to make any payment when due hereunder shall not be so excused.

16. Notices. All notices required in the Agreement shall be effective: (a) if given personally, upon receipt; (b) if given by facsimile or electronic mail, when such notice is transmitted and confirmation of receipt obtained; (c) if mailed by certified mail, postage prepaid, to the last known address of each party, three business days after mailing; or (d) if delivered to a nationally

recognized overnight courier service, one business day after delivery.

17. Assignment. The Agreement may not be assigned or transferred by Client without the prior written consent of Brycer and any purported transfer in violation of this section shall be null and void. The Agreement shall be binding upon and inure to the benefit of the parties thereto and their respective successors and representatives.

18. JURISDICTION AND VENUE. THE AGREEMENT SHALL BE GOVERNED BY, CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, AND ENFORCEABLE UNDER, THE LAWS OF THE STATE IN WHICH CLIENT EXISTS APPLICABLE TO CONTRACTS MADE IN SUCH STATE AND THAT ARE TO BE WHOLLY PERFORMED IN SUCH STATE WITHOUT REFERENCE TO THE CHOICE-OF-LAW PRINCIPLES OF SUCH STATE. THE PARTIES IRREVOCABLY AGREE THAT ALL ACTIONS OR PROCEEDINGS IN ANY WAY, MANNER OR RESPECT ARISING OUT OF OR FROM OR RELATED TO THE AGREEMENT SHALL BE LITIGATED ONLY IN COURTS LOCATED WITHIN THE STATE IN WHICH CLIENT EXISTS. THE PARTIES HEREBY CONSENT AND SUBMIT TO THE EXCLUSIVE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED WITHIN SAID STATE. THE PARTIES HEREBY WAIVE ANY RIGHTS THEY MAY HAVE TO TRANSFER OR CHANGE VENUE OF ANY SUCH ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. THE PARTIES WAIVE ANY RIGHT TO TRIAL BY JURY ON ANY ACTION OR PROCEEDING TO ENFORCE OR DEFEND ANY RIGHTS UNDER THE AGREEMENT, AND AGREE THAT ANY SUCH ACTION OR PROCEEDING SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY.

19. Fees. The prevailing party in any proceeding in connection with the Agreement shall be entitled to recover from the non-prevailing party all costs and expenses, including without limitation, reasonable and costs incurred by such party in connection with any such proceeding.

20. Entire Agreement. The Agreement sets out the entire agreement between the parties relative to the subject matter hereof and supersedes all prior or contemporaneous agreements or representations, oral or written.

21. Amendment. The Agreement may not be altered or modified, except by written amendment which expressly refers to the Agreement and which is duly executed by authorized representatives of both parties. The waiver or failure by either party to exercise or enforce any right provided for in the Agreement shall not be deemed a waiver of any further right under the Agreement. Any provision of the Agreement held to be invalid under applicable law shall not render the Agreement invalid as a whole, and in such an event, such provision shall be interpreted so as to best accomplish the intent of the parties within the limits of applicable law. The Agreement may be executed by facsimile and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

22. Expiration. The rights and obligations contained in these Terms and Conditions shall survive any expiration or termination of the Agreement.

Exhibit B

Maintenance Schedule and Minimum Service Levels

1. **Uptime and Maintenance.**

The Solution shall be available 24 hours per day during the term of this Agreement. The Solution shall be fully functional, timely and accessible by Client at least 99.5% of the time or better and Brycer shall use reasonable efforts to provide Recipient with advance notice of any unscheduled downtime.

2. **Response Time.**

Developer shall respond to telephone calls from Client within two hours of the call and/or message and all emails from Client within two hours of the receipt of the email.

3. **Customer Support**

Customer support hours are 24/7/365. The toll free number is 1-855-279-2371

Brycer will assign client a dedicated customer representative with direct access to their email and work number.

ATTACHMENT C

to Master Price Agreement by and between VENDOR and PURCHASER.

Vendor's Proposal is not attached hereto but is incorporated herein.

ATTACHMENT D

to Master Price Agreement by and between **VENDOR** and **PURCHASER**.

Purchaser's Request for Proposal is not attached hereto but is incorporated herein.

**AMENDMENT TO INSPECTION, TESTING AND MAINTENANCE
REPORT SYSTEM FOR FIRE AND LIFE SAFETY COMPLIANCE
MASTER PRICE AGREEMENT**

SERVICE ADJUSTMENT

This Amendment to the Master Price Agreement is effective as of the 26 day of January, 2016 by the Public Procurement Authority ("Purchaser") and Brycer, LLC ("Vendor") based upon the sales and/or service of Inspection, Testing and Maintenance Report System for Fire and Life Safety Compliance.

RECITALS

WHEREAS, Purchaser and Vendor entered into a Master Price Agreement on or about August 21, 2014 and by this reference incorporated herein; and

WHEREAS, Article 1.6 of the Master Price Agreement allows for updating services; and

WHEREAS, Vendor has provided notice of updated services on or about January 25, 2016; and

WHEREAS, such updated service is set forth in Section 3 to Attachment B and reads:

- **Call Center.** Brycer may make phone calls on behalf of the Client to the property and/or the service provider for all fire and life-safety systems overdue for service and/or with open violations on dates automatically tracked within the database. Brycer is not an agent of the Client and all scripts for the overdue calls will be approved by the Client.

WHEREAS, Purchaser and Vendor desire that the Master Price Agreement shall be amended in part to reflect the services adjustment;

NOW, THEREFORE, Purchaser and Vendor enter into the following:

**AMENDMENT TO INSPECTION, TESTING AND MAINTENANCE
REPORT SYSTEM FOR FIRE AND LIFE SAFETY COMPLIANCE
MASTER PRICE AGREEMENT**

1. Adjustment to Services. Attachment B to the Master Price Agreement shall be amended in its entirety to read as follows:

2. **Full Force and Effect.** In each and every other respect, the terms of the Master Price Agreement, as amended, entered into between the parties on or about August 21, 2014 shall remain in full force and effect during the term of the agreement and the parties hereto hereby ratify said Master Price Agreement in its entirety, as if fully set out herein, along with the modifications identified herein

IN WITNESS WHEREOF, the parties have hereto signed this Amendment on the day and year first above written.

PUBLIC PROCUREMENT AUTHORITY

Heidi Arnold

Date

1/26/16

BY: Heidi Arnold

ITS: Contract Manager

BRYCER, LLC

Matthew B. Rub

Date

1-26-16

BY: Matthew B. Rub

ITS: President

**SECOND AMENDMENT TO INSPECTION, TESTING AND
MAINTENANCE REPORT SYSTEM FOR FIRE AND LIFE SAFETY
COMPLIANCE
MASTER PRICE AGREEMENT**

This Second Amendment to the Master Price Agreement is entered into this 29 day of April, 2016 by the Public Procurement Authority ("Purchaser") and Brycer, LLC ("Vendor") based upon the sales and/or service of Inspection, Testing and Maintenance Report System for Fire and Life Safety Compliance.

RECITALS

WHEREAS, Purchaser and Vendor entered into a Master Price Agreement on or about August 21, 2014 and by this reference incorporated herein; and

WHEREAS, ~~Purchaser and Vendor entered into a First Amendment to the Master Price Agreement on or about January 26, 2016 and by this reference incorporated herein;~~ and

WHEREAS, Article 4.1 of the Master Price Agreement provides for Pricing Schedule Changes as set forth in Attachment A to the Master Price Agreement;

WHEREAS, Purchaser and Vendor desire that the Master Price Agreement shall be amended in part as follows;

NOW, THEREFORE, Purchaser and Vendor enter into the following:

SECOND AMENDMENT TO MASTER PRICE AGREEMENT

1 Section 4 of Attachment A to the Master Price Agreement shall be amended to read as follows:

4. Pricing

System Type example pricing breakdown below. Each AHJ can determine what system types they track by adding or removing system types from the agreement.

System Type	Price	Billing Frequency
Active Smoke Control System	\$10.00	Annual*
Automatic Fire Sprinkler System	\$10.00	Annual*
Commercial Hood Cleaning	\$10.00	Per Submittal
Emergency Generator	\$10.00	Annual*
Fire Doors	\$10.00	Annual*
Leak Detection System	\$10.00	Annual*
Special Suppression System	\$10.00	Per Submittal
Standpipe	\$10.00	Annual*

* If follow up documentation is required to be submitted such as a repair report or retest, an additional charge may apply.

Collection of Inspection/Testing Fees: Brycer will collect fees due payable by third party contractors in connection with activities relating to the Solution, which may be amended from time to time upon agreement of Brycer and AHJ.

2. **Full Force and Effect.** In each and every other respect, the terms of the Master Price Agreement, as amended, entered into between the parties on or about August 21, 2014 shall remain in full force and effect during the term of the agreement and the parties hereto hereby ratify said Master Price Agreement in its entirety, as if fully set out herein, along with the modifications identified herein.

IN WITNESS WHEREOF, the parties have hereto signed this Amendment on the day and year first above written.

PUBLIC PROCUREMENT AUTHORITY:

Heidi Arnold Date 4/29/16
BY: Heidi Arnold
ITS: Contract Manager

BRYCER, LLC:

Mark B. R. Date 4-29-16
BY:
ITS:

Intergovernmental Cooperative Purchasing Agreement

This Intergovernmental Agreement (Agreement) is by and between the Lead Contracting Agency ("Public Procurement Authority (PPA)") and participating government entities ("Participating Agencies") that agree to the terms and conditions of this Agreement. The Lead Contracting Agency and all Participating Agencies shall be considered as "parties" to this agreement.

WHEREAS, upon completion of a formal competitive solicitation and selection process, PPA has entered into a Master Price Agreement with one or more Vendors to provide goods and services, often based on national sales volume projections;

WHEREAS, the Master Price Agreement provides that Participating Agencies may purchase goods and services on the same terms, conditions and pricing as the PPA, subject to applicable local and state laws of the Participating Agencies;

WHEREAS, the parties agree to comply with the requirements of the Intergovernmental Cooperation Act as may be applicable to the local and state laws of the Participating Agencies;

WHEREAS, the parties desire to conserve and leverage resources, and to improve the efficiency and economy of the procurement process while reducing solicitation and procurement costs;

WHEREAS, the parties are authorized and eligible to contract with governmental bodies and Vendors to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, the parties desire to contract with Vendors under the terms of the Master Price Agreement;

NOW, THEREFORE, the parties agree as follows:

ARTICLE 1: LEGAL AUTHORITY

Each party represents and warrants that it is eligible to participate in this Agreement because it is a local government created and operated to provide one or more governmental functions and possesses adequate legal authority to enter into this Agreement.

ARTICLE 2: APPLICABLE LAWS

The procurement of goods and services subject to this Agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules, and regulations that govern each party's procurement policies. Competitive Solicitations are intended to meet the public contracting requirements of the PPA and may not be appropriate under, or satisfy

Participating Agencies' procurement laws. It is the responsibility of each party to ensure it has met all applicable solicitation and procurement requirements. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local and state solicitation requirements.

ARTICLE 3: USE OF BID, PROPOSAL OR PRICE AGREEMENT

- a. A "procuring party" is defined as the PPA or any Participating Agency that desires to purchase from the Master Price Agreement awarded by the PPA.
- b. Each procuring party shall be solely responsible for their own purchase of goods and services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation of law or contract by a procuring party, and the procuring party shall hold non-procuring parties and all unrelated procuring parties harmless from any liability that may arise from action or inaction of the procuring party.
- c. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar goods and services outside the scope of the Master Price Agreement.
- d. The exercise of any rights or remedies by the procuring party shall be the exclusive obligation of such procuring party.
- e. The cooperative use of bids, proposals or price agreements obtained by a party to this Agreement shall be in accordance with the terms and conditions of the bid, proposal or price agreement, except as modified where otherwise allowed or required by applicable law, and does not relieve the party of its other solicitation requirements under state law or local policies.

ARTICLE 4: PAYMENT OBLIGATIONS

The procuring party will make timely payments to Vendors for goods and services received in accordance with the terms and conditions of the procurement. Payment for goods and services, inspections and acceptance of goods and services ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor shall be resolved in accordance with the law and venue rules of the state of the procuring party.

ARTICLE 5: COMMENCEMENT DATE

This Agreement shall take effect after execution of the "Public Procurement Authority Endorsement and Authorization" or "Participating Agency Endorsement and Authorization," as applicable.

ARTICLE 6: TERMINATION OF AGREEMENT

This Agreement shall remain in effect until terminated by a party giving 30 days written notice to "PPA".

ARTICLE 7: ENTIRE AGREEMENT

This Agreement and any attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

ARTICLE 8: CHANGES AND AMENDMENTS

This Agreement may be amended only by a written amendment executed by all parties, except that any alterations, additions, or deletions of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

ARTICLE 9: SEVERABILITY

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

THIS INSTRUMENT HAS BEEN EXECUTED IN TWO OR MORE ORIGINALS BY EXECUTION AND ATTACHMENT OF "THE PUBLIC PROCUREMENT AUTHORITY ENDORSEMENT AND AUTHORIZATION" OR "PARTICIPATING AGENCY ENDORSEMENT AND AUTHORIZATION," AS APPLICABLE. ONCE EXECUTED, IT IS THE RESPONSIBILITY OF EACH PARTY TO FILE THIS AGREEMENT WITH THE PROPER AGENCY IF REQUIRED BY LOCAL OR STATE LAW.

**PUBLIC PROCUREMENT AUTHORITY
ENDORSEMENT AND AUTHORIZATION**

The undersigned acknowledges, on behalf of the Public Procurement Authority ("Lead Contracting Agency") that he/she has read and agrees to the general terms and conditions set forth in the enclosed Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by the Public Procurement Authority to Participating Agencies locally, regionally, and nationally. Copies of Master Price Agreements and any amendments thereto made available by the Public Procurement Authority will be provided to Participating Agencies to facilitate use by Participating Agencies.

The undersigned understands that the purchase of goods and services under the provisions of the Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agencies.

The undersigned affirms that he/she is an agent of the Public Procurement Authority and is duly authorized to sign this Public Procurement Authority Endorsement and Authorization.



Date: August 21, 2014

BY: Jeffrey D. Johnson
ITS: Administrator

Public Procurement Authority Contact Information:

Contact Person: Heidi Chames
Address: 25030 SW Parkway Avenue
Suite 330
Wilsonville, OR 97070
Telephone No.: 855-524-4572
Email: questions@procurementauthority.org

**PARTICIPATING AGENCY
ENDORSEMENT AND AUTHORIZATION**

The undersigned acknowledges, on behalf of the Los Angeles Fire Department ("Participating Agency") that he/she has read and agrees to the general terms and conditions set forth in the enclosed Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by the Public Procurement Authority to Participating Agencies locally, regionally, and nationally.

The undersigned further acknowledges that the purchase of goods and services under the provisions of the Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agency and that PPA shall not be held liable for any costs or damages incurred by or as a result of the actions of the Vendor or any other Participating Agency. Upon award of contract, the Vendor shall deal directly with the Participating Agency concerning the placement of orders, disputes, invoicing and payment.

The undersigned affirms that he/she is an agent of the Los Angeles Fire Department and is duly authorized to sign this Participating Agency Endorsement and Authorization.

BY: Ralph M. Terrazas
ITS: Fire Chief

Date: _____

Participating Agency Contact Information:

Contact Person: Bill Jones
Address: 200 North Main Street
Los Angeles, California 90012

Telephone No.: (213) 978-3461
Email: bill.jones@lacity.org