

LOS ANGELES FIRE COMMISSION

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FIRE COMMISSIONERS

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INDEPENDENT ASSESSOR

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

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

December 5, 2017

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
Room 303, City Hall
Attn: Mandy Morales, Legislative Coordinator

[BFC 17-131] – FIRST AMENDED AND RESTATED AGREEMENT C-128576 WITH
BRYCER, LLC FOR PROPRIETARY SOFTWARE SERVICES SUPPORTING
REGULATION 4 COMPLIANCE

At its meeting of December 5, 2017, the Board of Fire Commissioners approved the First Amended and Restated Agreement C-128576 with Brycer, LLC for Proprietary Software Services Supporting Regulation 4 Compliance. 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,

Isela Iñiguez
Acting Commission Executive Assistant

Attachment

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

LOS ANGELES FIRE DEPARTMENT



REMOVED 12/5/17
BOARD OF FIRE COMMISSIONERS
BY: [Signature]

RALPH M. TERRAZAS, COMMISSION EXECUTIVE ASSISTANT
FIRE CHIEF

November 17, 2017

BOARD OF FIRE COMMISSIONERS
FILE NO. 17-131

TO: Board of Fire Commissioners

FROM: [Signature] Ralph M. Terrazas, Fire Chief

SUBJECT: FIRST AMENDED AND RESTATED AGREEMENT C-128576 WITH
BRYCER, LLC FOR PROPRIETARY SOFTWARE SERVICES
SUPPORTING REGULATION 4 COMPLIANCE

Final Action:	<input 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 Withdrawn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

The Los Angeles Fire Department (LAFD) is responsible for overseeing the Regulation 4 Compliance of Fire Control Systems in buildings throughout the City. Buildings without properly maintained fire protection systems pose a significant danger to their occupants and results in increased false alarm incidents that unnecessarily tax LAFD's emergency response resources.

On August 7, 2015, the LAFD entered into a 12-month pilot program Agreement (C-126027) with Brycer, LLC (Brycer) for Software-as-a-Service technology, referred to as the Compliance Engine. The software provides an internet-based inspection, testing and maintenance reporting system for fire and life safety compliance. The service is at no cost to the City. Payment to Brycer is through its collection of fees from third party testers in connection with activities relating to the Compliance Engine. Implementation of the software has enhanced the Department's building compliance tracking and provided safer buildings for the citizens who live and work in Los Angeles.

On November 4, 2016, City Council authorized the Fire Chief to execute Agreement C-128576 with Brycer for a one year term from August 7, 2016 through August 6, 2017, with five additional three year renewal options (C. F. 16-1019). The Department recommends exercising the first renewal option to extend the Agreement for an additional three year term through August 6, 2020.

Since the August 2015 implementation of the Compliance Engine, 81,371 fire protection system deficiencies have been repaired or are in the process of repair. Further, the Fire Prevention Bureau has identified the following improvement metrics between August 2015 and October 2017:

	August 2015	October 2017	% Improvement
# of fire protection systems identified	40,093	65,222	63%
# of fire protection systems past due on testing/maintenance	28,682 of 40,093 systems (72%)	21,154 of 65,222 systems (32%)	40%

RECOMMENDATION

That the Board:

1. Approve the First Amended and Restated Agreement C-128576 with Brycer, LLC for an extension covering the period of August 7, 2016 through August 6, 2020, with four additional three-year renewal options, and provide the Department authority to exercise the first renewal option.
2. Authorize the Fire Chief to exercise the first three-year renewal option to extend the term of the First Amended and Restated Agreement C-128576 for the period of August 7, 2017 through August 6, 2020, and to execute the Agreement.
3. Transmit the Agreement to the Mayor and City Council for consideration and approval.

FISCAL IMPACT

There is no impact on the General Fund. The Software-as-a Service technology ("Compliance Engine") is funded by fees collected by the contractor from third party testers in connection with fire life safety system certification testing.

This Board report was prepared by Rodd Souter, Battalion Chief, Fire Prevention and Public Safety Bureau and Alicia Katano, Management Analyst, Administrative Services Bureau.

Attachment

FIRST AMENDED AND RESTATED AGREEMENT No. C-128576

BETWEEN

THE CITY OF LOS ANGELES

AND

BRYCER, LLC

FOR

THE COMPLIANCE ENGINE SOFTWARE

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**FIRST AMENDED AND RESTATED AGREEMENT No. C-128576
BETWEEN THE CITY OF LOS ANGELES
AND
BRYCER, LLC**

This First Amended and Restated 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 for *Software-As-A-Service* technology (herein referred to as the "Solution," "The Compliance Engine" and/or "TCE REG 4") that provides an internet-based inspection, testing and maintenance reporting system for fire and life safety compliance; and

WHEREAS, LAFD Fire Chief's Regulation 4 requires regular testing and repair of Fire Protection Equipment in buildings with fire protection systems in order to ensure proper operating conditions; and

WHEREAS, the CONTRACTOR's proprietary, internet-based software system provides the LAFD with a more efficient and accurate system to track and monitor Regulation 4 compliance, reduce false alarm activity and uphold Public Safety needs; and

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

WHEREAS, the LAFD took advantage of the above referenced competitive contracting process and entered into a twelve month pilot program (C-126027) between August 7, 2015 through August 6, 2016; and

WHEREAS, on November 4, 2016 City Council (Council File No. 16-1019) authorized the Fire Chief to execute Agreement C-128576 with CONTRACTOR for a term commencing on August 7, 2016 through August 6, 2017 with up to five (5) additional three (3) year extensions; and

WHEREAS, in this First Amended and Restated Agreement, both Parties desire to exercise the first option to extend the term for an additional three (3) years through August 6, 2020; 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

This First Amended and Restated Agreement will be effective upon the date of attestation by the City Clerk for a term beginning on August 7, 2016 and expiring on August 6, 2020. 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 four (4) 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 the terms and conditions 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-9.a of the CITY's Standard Provisions for CITY Contracts (rev 10/17)[v.2].

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 RESPONSIBILITIES

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:

Kristin M. Crowley, 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 1-CITY's Required Insurance and Minimum Limits;
- Appendix C - CONTRACTOR's Terms and Conditions; and,
- Appendix E – Oregon Public Procurement Authority Master Pricing Agreement.
- Appendix F – Intergovernmental Cooperative Purchasing Agreement E

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

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. 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: _____

CATRINA M. ARCHULETA
Deputy City Attorney

By: _____

Deputy City Clerk

Dated: _____

Dated: _____

Internal Revenue Service Tax Identification Number: 27-4574428

Agreement Number: C-128576-1

Business Tax Registration Certificate 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
(Rev. 10-17)[v.2]

STANDARD PROVISIONS FOR CITY CONTRACTS

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STANDARD PROVISIONS FOR CITY CONTRACTS

PSC-1. Construction of Provisions and Titles Herein

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

PSC-2. Applicable Law, Interpretation and Enforcement

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

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

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

PSC-3. Time of Effectiveness

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

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

PSC-4. Integrated Contract

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

PSC-5. Amendment

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

PSC-6. Excusable Delays

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

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

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

PSC-7. Waiver

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

PSC-8. Suspension

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

PSC-9. Termination**A. Termination for Convenience**

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

B. Termination for Breach of Contract

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

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

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

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

PSC-10. Independent Contractor

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

PSC-11. Contractor's Personnel

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

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

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

PSC-12. Assignment and Delegation

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

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

PSC-13. Permits

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

PSC-14. Claims for Labor and Materials

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

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

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

PSC-16. Retention of Records, Audit and Reports

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

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

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

PSC-17. Bonds

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

PSC-18. Indemnification

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

PSC-19. Intellectual Property Indemnification

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

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

PSC-20. Intellectual Property Warranty

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

PSC-21. Ownership and License

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

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

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

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

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

PSC-22. Data Protection

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

PSC-23. Insurance

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

PSC-24. Best Terms

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

PSC-25. Warranty and Responsibility of Contractor

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

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

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

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

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

PSC-27. Child Support Assignment Orders

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

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

PSC-28. Living Wage Ordinance

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

PSC-29. Service Contractor Worker Retention Ordinance

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

PSC-30. Access and Accommodations

CONTRACTOR represents and certifies that:

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

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

PSC-31. Contractor Responsibility Ordinance

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

PSC-32. Business Inclusion Program

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

PSC-33. Slavery Disclosure Ordinance

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

PSC-34. First Source Hiring Ordinance

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

PSC-35. Local Business Preference Ordinance

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

PSC-36. Iran Contracting Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PSC-42. Possessory Interests Tax

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

PSC-43. Confidentiality

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

EXHIBIT 1**INSTRUCTIONS AND INFORMATION
ON COMPLYING WITH CITY INSURANCE REQUIREMENTS**

(Share this information with your insurance agent or broker)

1. **Agreement/Reference** All evidence of insurance should identify the nature of your business with the **CITY**. Clearly show any assigned number of a bid, contract, lease, permit, etc. or give the project name and the job site or street address to ensure that your submission will be properly credited. Provide the **types of coverage and minimum dollar amounts** specified on the Required Insurance and Minimum Limits sheet (Form Gen. 146) as determined in writing by the CAO-RM.

2. **When to submit** Normally, no work may begin until a **CITY** insurance certificate approval number ("CA number") has been obtained, so insurance documents should be submitted as early as practicable. For **As-needed Contracts**, insurance need not be submitted until a specific job has been awarded. **Design Professionals** coverage for new construction work may be submitted simultaneously with final plans and drawings, but before construction commences.

Submitting your documents. **Track4LA®** is the **CITY'S** online insurance compliance system and is designed to make the experience of submitting and retrieving insurance information quick and easy. The system is designed to be used by insurance brokers and agents as they submit client insurance certificates directly to the **CITY**. It uses the standard insurance industry form known as the **ACORD 25 Certificate of Liability Insurance** in electronic format. **Track4LA®** advantages include standardized, universally accepted forms, paperless approval transactions (24 hours, 7 days per week), and security checks and balances. The easiest and quickest way to obtain approval of your insurance is to have your insurance broker or agent access **Track4LA®** at <http://track4la.lacity.org> and follow the instructions to register and submit the appropriate proof of insurance on your behalf.

Insurance industry certificates other than the ACORD 25 may be accepted, however **submissions other than through Track4LA® will significantly delay the insurance approval process as documents will have to be manually processed**. **CONTRACTOR** must provide **CITY** a thirty day notice of cancellation (ten days for non-payment of premium) AND an Additional Insured Endorsement naming the **CITY** an additional insured completed by your insurance company or its designee. If the policy includes an automatic or blanket additional insured endorsement, the Certificate must state the **CITY** is an automatic or blanket additional insured. An endorsement naming the **CITY** an Additional Named Insured and Loss Payee as Its Interests May Appear is required on property policies. All evidence of insurance must be authorized by a person with authority to bind coverage, whether that is the authorized agent/broker or insurance underwriter. Completed **Insurance Industry Certificates other than ACORD 25 Certificates** are sent electronically to CAO.insurance.bonds@lacity.org.

Additional Insured Endorsements DO NOT apply to the following:

- Indication of compliance with statute, such as Workers' Compensation Law.
- Professional Liability insurance.

Verification of approved insurance and bonds may be obtained by checking **Track4LA®**, the **CITY'S** online insurance compliance system, at <http://track4la.lacity.org>.

4. **Renewal** When an existing policy is renewed, have your insurance broker or agent submit a new Acord 25 Certificate or edit the existing Acord 25 Certificate through **Track4LA®** at <http://track4la.lacity.org>.

5. **Alternative Programs/Self-Insurance** Risk financing mechanisms such as Risk Retention Groups, Risk Purchasing Groups, off-shore carriers, captive insurance programs and self-insurance programs are subject to separate approval after the **CITY** has reviewed the relevant audited financial statements. To initiate a review of your program, you should complete the Applicant's Declaration of Self Insurance form (<http://cao.lacity.org/risk/InsuranceForms.htm>) to the CAO-RM for consideration.

Required Insurance and Minimum Limits

Name: Los Angeles Fire DepartmentDate: 08/03/2016Agreement/Reference: Brycer, LLC

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

Limits

☒ **Workers' Compensation - Workers' Compensation (WC) and Employer's Liability (EL)**

 WC Statutory
 EL \$1,000,000
☐ Waiver of Subrogation in favor of City
☐ Longshore & Harbor Workers
☐ Jones Act

☒ **General Liability** \$1,000,000
☒ Products/Completed Operations☐ Sexual Misconduct 3) Professional Liability (insu)☐ Fire Legal Liability☐

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

☒ **Professional Liability** (Errors and Omissions) \$5,000,000
Discovery Period See Note #3

☐ **Property Insurance** (to cover replacement cost of building - as determined by insurance company)
☐ All Risk Coverage☐ Boiler and Machinery☐ Flood☐ Builder's Risk☐ Earthquake☐ Fine Arts - Cover value of exhibit

☐ **Pollution Liability**
☐

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

100% of the contract price

☐ **Crime Insurance**

Other: General Notes:

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

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

3) Professional Liability Insurance to include: Tech Errors & Omissions, Cyber Privacy and Data Breach.

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

ATTACHMENT A

to Master Price Agreement by and between VENDOR and PURCHASER.

STATEMENT OF WORK

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

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

181 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, including the RFP and/or Vendor's Proposal, the provisions shall be interpreted, to the extent possible, as if they do not conflict.

182 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 Agency's 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.

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, "force majeure" 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 party's 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.

Subject to Vendor's 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 Purchaser's right to audit under this Article 11 and Purchaser's 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

the performance of the work or services, as well as Employer's 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 Workers' Compensation and Employer's 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's 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 Vendor agrees to comply with all Applicable Laws. At Vendor's expense, secure 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 with the performance of its obligations hereunder. At Purchaser's request, Vendor shall provide 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 this Agreement and there is no governmental or legal impediment against Purchaser's execution 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

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 or Vendor's 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 and Vendor's Proposal, 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 administrative personnel, long distance telephone charges, etc. ("Incidental Expenses"). To the 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

51 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 Vendor shall carry Workers' Compensation insurance to cover obligations imposed by federal and state statutes having jurisdiction over Vendor's employees engaged in

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 "Purchaser" 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 Service's Procurement List ("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 invoices must reference the Purchaser's Purchase Order number, contain an itemization of amounts for Services purchased during the applicable invoice period and any other information

1.6 “Services” shall mean the services to be sold by Vendor hereunder as identified 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 “Unemployment Insurance” shall mean the contribution required of Vendor, as an 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 “Lead Contracting Agency” shall mean the Public Procurement Authority, which is the governmental entity that issued the Request for Proposal and awarded this resulting Master Price Agreement.

1.9 “Participating Agencies” shall mean other qualified government agencies for which Vendor has agreed to extend the terms of this Master Price Agreement pursuant to Article 2.5 and Attachment B herein. For purposes of cooperative procurement, “Participating Agency” shall be considered “Purchaser” under the terms of this 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 (the “SLA”). The SLA shall 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) Vendor’s Proposal; 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 agency’s local regulations, and that wish to access this

PUBLIC PROCUREMENT AUTHORITY
MASTER PRICE AGREEMENT

This Master Price Agreement is effective as of the date of the last signature below (the "Effective Date") by and between the PUBLIC PROCUREMENT AUTHORITY ("PPA" or "Purchaser") and Brycer, LLC ("Vendor").

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 "Parties" shall mean the Purchaser and Vendor.

1.2 "Agreement" shall mean this Master Price Agreement, including the main body of this Agreement and Attachments A-D attached hereto and by this reference incorporated herein, including Purchaser's Request for Proposal RFP No. 1406 (herein "RFP") and Vendor's Proposal submitted in response to the RFP (herein "Vendor's Proposal") as referenced and incorporated herein as though fully set forth (sometimes referred to collectively as the "Contract Documents").

1.3 "Applicable Law(s)" shall mean all applicable federal, state and local laws, statutes, ordinances, codes, rules, regulations, standards, orders and other governmental requirements of any kind.

1.4 "Employee Taxes" shall mean all taxes, assessments, charges and other amounts whatsoever payable in respect of, and measured by the wages of, the Vendor's employees (or 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 "Purchaser's Destination" shall mean such delivery location(s) or destination(s) as Purchaser may prescribe from time to time.

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



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 ("IGA") 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 Agency's legal requirements.

BRYCER, LLC
4355 Weaver Parkway
Suite 100
Warrenville, IL 60555

 Attn: _____

Re: "The Compliance Engine"

We look forward to providing you with "The Compliance Engine" (the "Solution"). This proposal letter provides the basic terms by which Brycer, LLC ("Brycer") will provide you, ("Client"), with the Solution. The use of the Solution and all matters between Brycer and Client will be subject to the standard "Terms and Conditions" attached to this proposal as Exhibit A. The basic terms are as follows:

1. **Term**: Brycer will provide Client with the Solution for three years, commencing (the "Initial Term"). Thereafter, the Term shall automatically renew for successive three year period unless terminated by Brycer or Client in writing at least 90 days prior to the expiration of the then current Term (each, a "Renewal Term" and together with the Initial Term, the "Term"). 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, Client's 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.

2. **Fees**: Client shall not pay any fees for use of the Solution. Brycer will collect all fees due and payable by third party inspectors in connection with activities relating to the Solution plus any additional fees which Client charges in connection with the activities relating to the subject premises (the "Certification Fees"). Upon receipt of a Certification Fee, Brycer will remit to Client the amount by which such Certification Fee exceeds the amount of fees due and payable to Brycer in connection with such third party inspector's use of the Solution, which may be amended from time to time upon the 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.

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

- **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 Client's 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 installed on the Client's equipment (the "Client Access Software") 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.** Client shall allow Brycer at Client's facilities to train all applicable personnel 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] for Brycer's 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 Client's 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

By: _____
Its: _____

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

[CLIENT]

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 "Agreement").

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 "Authorized Users") to use 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 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. 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 Solution and/or Brycer's policies, procedures, and requirements 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 have the right to use Client's 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 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 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 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 Client'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. Client 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 Client'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 Client or otherwise at Client'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 Client's rights hereunder, immediately upon delivering written notice to Client detailing Client's 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. 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.

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 28, 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:

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

Appendix F—Intergovernmental Cooperative Purchasing Agreement

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: 11-21-16

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