

**PROFESSIONAL SERVICES, SOFTWARE SUBSCRIPTION, AND LEASE
AGREEMENT**

By and Between

CITY OF CARSON

and

MOTOROLA SOLUTIONS, INC.

**PROFESSIONAL SERVICES, SOFTWARE SUBSCRIPTION, AND LEASE
AGREEMENT
BETWEEN THE CITY OF CARSON AND
MOTOROLA SOLUTIONS, INC.**

THIS PROFESSIONAL SERVICES, SOFTWARE SUBSCRIPTION, AND LEASE AGREEMENT (herein “Agreement”) is made and entered into this ____ day of _____, 2023 by and between the CITY OF CARSON, a California municipal corporation (“City”) and MOTOROLA SOLUTIONS, INC., a Delaware corporation (“Consultant”). City and Consultant are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as the “Parties.”

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services, provide a software subscription, and lease of equipment to City.

C. Pursuant to the City of Carson’s Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services

described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant’s Proposal.

The Scope of Service shall include the Consultant’s scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant’s risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such

damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Eight Hundred Fifteen Thousand Two Hundred Fifteen Dollars and Twenty Four Cents (**\$815,215.24**) (the "Contract Sum") (which is inclusive of applicable taxes), unless additional compensation is approved pursuant to Section 1.8. The Contract Sum reflects 73

LPR Cameras (“Hardware”) (as described in the Scope of Services) which shall be leased by City through the lease model (defined in Section 1.1.2 above), the number of which is subject to change depending on the final determination of City needs. City affirms that a purchase order or notice to proceed is not required for contract performance or for subsequent years of service, if any. At the time of execution of this Agreement, the City will provide all necessary reference information to include on invoices for payment in accordance with this Agreement. Consultant may increase any subscription fees prior to beginning a renewed subscription term after expiration of the initial 5 year subscription period. Consultant will notify City of the proposed increase in fees at least thirty (30) days prior to the renewal of a subscription. Any such increase in fees shall be memorialized in a formal amendment to this Agreement.”

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant’s rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City’s Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant’s correct and undisputed

invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit “D”).

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (“Principals”) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

_____	_____
(Name)	(Title)
_____	_____
(Name)	(Title)
_____	_____
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant’s officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant’s officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City’s employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be Ken McKay, Public Safety Manager, or as otherwise designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension

thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional 5-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(g) Broader Coverages and Higher Limits. Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute

with Consultant's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

Consultant Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or any automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which

the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This

indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Consultant agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of

work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City’s sole risk and without liability to Consultant, and Consultant’s guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes; Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear

to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer

thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Carson, 701 East Carson, Carson, California 90745 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in any number of counterparts and each of such counterparts shall for all purposes be deemed to be an original, whether the signatures are originals, electronic, facsimiles or digital. All such counterparts shall together constitute but one and the same Agreement.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "non-interests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such

payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _____

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF CARSON, a municipal corporation

Lula Davis-Holmes, Mayor

ATTEST:

Dr. Khaleah R. Bradshaw, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Sunny K. Soltani, City Attorney
[rjl]

CONSULTANT:

MOTOROLA SOLUTIONS, INC., a Delaware corporation

By:_____
Name:
Title:

By:_____
Name:
Title:
Address: 500 W. Monroe Street, Suite 4400
Chicago, IL 60661

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2023 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/> INDIVIDUAL	
<input type="checkbox"/> CORPORATE OFFICER	
<div style="text-align: center;">_____ TITLE(S)</div> <input type="checkbox"/> PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	<div style="text-align: center;">_____ TITLE OR TYPE OF DOCUMENT</div>
<input type="checkbox"/> ATTORNEY-IN-FACT	
<input type="checkbox"/> TRUSTEE(S)	
<input type="checkbox"/> GUARDIAN/CONSERVATOR	<div style="text-align: center;">_____ NUMBER OF PAGES</div>
<input type="checkbox"/> OTHER _____	
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____	<div style="text-align: center;">_____ DATE OF DOCUMENT</div>
	<div style="text-align: center;">_____ SIGNER(S) OTHER THAN NAMED ABOVE</div>

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2023 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
<input type="checkbox"/>	INDIVIDUAL	_____
<input type="checkbox"/>	CORPORATE OFFICER	_____
<input type="checkbox"/>	PARTNER(S) <input type="checkbox"/> LIMITED <input type="checkbox"/> GENERAL	TITLE OR TYPE OF DOCUMENT _____
<input type="checkbox"/>	ATTORNEY-IN-FACT	_____
<input type="checkbox"/>	TRUSTEE(S)	NUMBER OF PAGES _____
<input type="checkbox"/>	GUARDIAN/CONSERVATOR	_____
<input type="checkbox"/>	OTHER _____	DATE OF DOCUMENT _____
SIGNER IS REPRESENTING: (NAME OF PERSON(S) OR ENTITY(IES)) _____ _____ _____		SIGNER(S) OTHER THAN NAMED ABOVE _____

EXHIBIT “A”
SCOPE OF SERVICES

I. Consultant will perform the following Services:

Under California State contractor’s license classification C-10, Consultant will provide City on a license/subscription and lease basis with the most current iteration of the L-Series Rapidly Deployable Solar Powered Camera, which is an automatic license plate recognition camera system (“LPR”) that will help the City, by way of the Los Angeles County Sheriff’s Department (“LASD”), capture critical investigative data and protect its citizens, within certain strategically placed locations within the City, including within public rights of way and entrances to City facilities (e.g., public parks, City Hall, Community Center and City Yard) (“Subscription Services”). The LPR collects clear vehicle plate, make, model, color and speed data in both light and dark conditions using integrated infrared illumination and starlight sensor that will enable LASD to scan vehicles, even in darkness. The LPR systems will be synchronized with LASD’s existing Vigilant Solutions Law Enforcement Archival Reporting Network (“LEARN”) account with the ability to provide alert notifications of “hits” to Dispatch in the existing LASD workflow. Collected data will be available to LASD Investigators and Analysts in their existing workflow but will not be made available to City unless LASD provides such access upon City’s request.

The Services will also include provision of professional and technical services for, and delivery, installation and removal of, equipment, inclusive of the LPRs (collectively, “Professional Services”), as follows:

- Consulting services to identify best locations, number, angles and configuration of, the LPRs, within certain areas of the City, including within public rights of way and driveway entrances to various City facilities (parks, City Hall, Community Center and City Yard). The Contract Sum reflects 73 such LPRs but is subject to change depending on the number of LPRs ultimately recommended by Consultant.
- 73 L6Q Quick Deploy Cameras which number is subject to adjustments depending on final determination of City needs after consultation between City and Consultant
- Mounting hardware
- Tier 1 Cellular Service and Data Connectivity from cameras to the City command center
- Back-office alert and configuration software
- Warranty, repair and replacement of Products upon notification of issues from City to Consultant. City or City’s Contract Officer shall be responsible for opening a ticket and/or notifying the Consultant of any issues with the Products. The Contract Officer will be responsible for enabling support services through LEARN. Consultant does not proactively manage or monitor the Hardware.

- Maintain the Hardware by cleaning the solar panels and camera lenses, testing the batteries, adjusting the camera alignment, if needed, on an annual basis, after pulling a permit each time at no charge to Consultant. The cameras receive automatic firmware updates.
- Remove all Hardware at expiration of subscription periods for an additional fee of \$150 per Hardware item (unless City elects to do so itself in which event City will pay a third party for such removal).

Further particulars of the Services follow below:

The system will be built then delivered to City. Consultant's Customer Success Manager ("CSM") will coordinate delivery and user training with City's designated Contract Officer. The CSM will coordinate with the Contract Officer to ensure they have all information required. The CSM will assist with setting up accounts, notifications, data-sharing, data retention, and answer any policy or training questions.

Once delivered, Consultant's Field Service Tech will come on-site to configure and provision the system to work with its LEARN/PlateSearch application. The tech will ensure the system is communicating with the network and scanning plates properly and set up notifications via Consultant's Target Alert System for the City, and provide all other deployment information. Multiple training resources are available for the L6Qs and the use of Consultant's LPR application LEARN. Consultant offers webinar, in-person, and on-demand training options to City, at no additional cost.

1. Kickoff call - On this call, participating teams confirm they are aligned on deliverables and determine next steps for the project. Participants will discuss the specifics of the deployment phases, and ensure the parties involved know what is expected for the project.
2. Permits - Consultant will obtain all permits determined by City to be needed, at no charge to Consultant.
3. Shipment and installation - Consultant will ship hardware to City's locations in this phase. Once hardware has been delivered, Consultant will schedule and then complete installation. In connection with all installation, Consultant shall ensure roadway clearances are maintained in accordance with the California Manual on Uniform Traffic Control Devices (MUTCD). Consultant will also provide City with the serial numbers and online dates for the equipment once installed.
4. System startup and commissioning - Includes final camera commissioning by Motorola Solutions' Technician to ensure the cameras are aimed correctly and functioning properly. This typically takes 30 minutes per camera, but may vary based on the size of LPR deployment.
5. Traffic Control - If traffic control is needed in order for Consultant to complete installation, Consultant will make arrangements with City for provision of such traffic control and obtain the appropriate City permit at no charge. All such work will be

performed by state licensed subcontractors as approved by the City's Contract Officer, and all subcontractors will comply with all laws and regulations in the performance of such work, including but not limited to, applicable prevailing wage laws required under this Agreement.

6. New Poles – If there is a need to install new poles to which the equipment will be attached, Consultant will make arrangements with City for provision of such new poles and foundations. If new poles are necessary, then City and Consultant shall be required to sign a separate statement of work and City shall be provided with a quote for the installation of new poles. Consultant defines "New Poles" as galvanized, 14 foot, poles in dirt ground. If any other alternative poles are necessary, additional pricing and terms may apply. Pricing for New Poles is exclusive of permit costs and taxes which will apply to cost of materials only. Consultant shall submit pole and foundation details for approval and obtain the appropriate City Public Works permit at no charge. All such work will be performed by state licensed subcontractors as approved by the City's Contract Officer, and all subcontractors will comply with all laws and regulations in the performance of such work, including but not limited to, applicable prevailing wage laws required under this Agreement.

7. Removal of Hardware – Consultant shall remove all Hardware immediately upon expiration of the subscription period or sooner termination thereof.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

A. As described in Section I above.

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports:

A. As requested by Contract Officer.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

A. Nicole Talton, VP of Sales, Video

B. Norberto Colon, MSSSI VP, Video

C. Sean Heieck, Regional Account Manager, Video

D. Jeff Ashton, Senior Account Manager

E. Louis Wershaw, Video Senior Account Manager

- F.** Joe Israwi, Video Technician
- G.** Jeff Miller, Video Customer Success Manager/Project Manager
- H.** Sam Palmer, Video Training Manager

EXHIBIT “B”
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

The Agreement is hereby amended as follows (deletions shown in ~~striketrough~~ and additions shown in ***bold italics***):

I. Section 1.1 (Scope of Services) of the Agreement is hereby amended to read in its entirety as follows:

“1.1 Scope of Services.

1.1.1 Generally. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.1.2 Lease Model and Commitment Term. City is electing to lease Hardware through the Consultant’s lease model for five years (“Hardware Commitment Term”), it being understood that the beginning and end dates of the Hardware Commitment Term with respect to each of the 73 LPR Cameras may differ slightly due to the anticipated installation and removal dates being different for each. The 73 LPR Cameras provided under this Agreement (“Hardware”) shall remain the sole property of the Consultant. City will have no rights whatsoever to the Hardware other than the right to use during the Hardware Commitment Term. City acknowledges and agrees this is an agreement for services, lease and subscription, and nothing herein will be deemed or construed as a grant or transfer of any real or personal property. Specifically, City acknowledges and agrees that City has not been granted any real property interest in any Hardware listed in the quote or proposal. City has no rights under any real property or landlord/tenant laws, regulations, or ordinances. The Hardware will remain in good condition, less normal wear and tear. Consultant will be responsible for the maintenance and repair of the Hardware unless the Hardware is damaged as a result of the action of City or its employees, agents, or contractors (“City’s Fault”), in which case City will reimburse Consultant for the cost of any necessary repairs or replacement of the Hardware as determined by Consultant in its reasonable discretion. Notwithstanding the foregoing, as soon as practicable following City learning that the Hardware is not operating properly resulting in data not being collected as intended, City is required to notify Consultant of such issue and Consultant will repair or replace the Hardware as needed and covered under the warranty. City will provide Consultant reasonable access to the Hardware for purposes of repair, maintenance, removal or otherwise. In the event the Hardware must be repaired or replaced as a result of City’s Fault, City will pack and ship the Hardware to a location of Consultant’s choosing, in such a way as to limit and/or avoid damage to the Hardware. Otherwise, Consultant shall bear all responsibility, including the cost, of shipping the Hardware for repair or replacement. In the event the Hardware is damaged in shipping necessitated from City’s Fault, City will be responsible for the cost to replace or repair the Hardware upon Consultant providing adequate proof to City that the Hardware became damaged during shipping. City is responsible for ensuring that any equipment provided by the City, or any third party and any alterations to the applicable network with which the Hardware is to be used is compatible with the Hardware.”

II. Section 1.2 (Consultant's Proposal) of the Agreement is hereby amended to read in its entirety as follows:

"1.2 Consultant's Proposal.

The Scope of Service shall include *Consultant's Proposal dated October 17, 2022* ~~scope of work or bid~~ which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern."

III. Section 1.3 (Compliance with Law) of the Agreement is hereby amended to read in its entirety as follows:

"1.3 Compliance with Law.

~~Consultant~~ *Each Party* shall keep itself informed *with and shall comply with* ~~concerning, and shall render all services hereunder in accordance with,~~ all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time ~~service is rendered.~~ *Services are provided or Hardware is used.*"

IV. Section 1.4 (Licenses, Permits, Fees and Assessments) of the Agreement is hereby amended to read in its entirety as follows:

"1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at *no cost to Consultant,* ~~its sole cost and expense~~ such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder."

V. Section 1.6 (Care of Work) of the Agreement is hereby deleted in its entirety and replaced with "Intentionally removed."

VI. A new Section 1.10 (Compliance with Labor and Wage Laws) is hereby added to the Agreement, to read in its entirety as follows:

"1.10 Compliance with Labor and Wage Laws.

Certain portions of the Services may be subject to prevailing wages under the Labor Code and to the extent such is true, the below provisions will apply.

(a) Public Work. The Parties acknowledge that at least a portion of the work to be performed under this Agreement is a "public work" as defined in Labor Code Section 1720 and that this Agreement is therefore subject to the requirements of Division 2, Part 7, Chapter 1

(commencing with Section 1720) of the California Labor Code relating to public works contracts and the rules and regulations established by the Department of Industrial Relations (“**DIR**”) implementing such statutes. The work performed under this Agreement is subject to compliance monitoring and enforcement by the DIR. Consultant shall post job site notices, as prescribed by regulation.

(b) Registration with DIR. Pursuant to Labor Code section 1771.1, Consultant and all subcontractors must be registered with, and pay an annual fee to, the DIR prior to and during the performance of any work under this Agreement.

(c) Prevailing Wages. Consultant shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at City Hall and will be made available to any interested party on request. By initiating any work under this Agreement, Consultant acknowledges receipt of a copy of the DIR determination of the prevailing rate of per diem wages, and Consultant shall post a copy of the same at each job site where work is performed under this Agreement. If this Agreement is subject to the payment of federal prevailing wages under the Davis-Bacon Act (40 U.S.C. § 3141 *et seq.*), then Consultant shall pay the higher of either the state or federal prevailing wage applicable to each laborer.

(d) Penalty for Failure to Pay Prevailing Wages. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Consultant shall, as a penalty to the City, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Consultant or by any subcontractor.

(e) Payroll Records. Consultant shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Consultant and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the City of the location of the records.

(f) Apprentices. Consultant shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6, and 1777.7 and California Code of Regulations Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Consultant shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Consultant shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Consultant and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

(g) Eight-Hour Work Day. Consultant acknowledges that eight (8) hours labor constitutes a legal day’s work. Consultant shall comply with and be bound by Labor Code Section 1810.

(h) Penalties for Excess Hours. Consultant shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. Consultant shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by Consultant or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Consultant in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1½) times the basic rate of pay.

(i) Workers' Compensation. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. In accordance with the provisions of California Labor Code Section 1861, Consultant certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

(j) Consultant's Responsibility for Subcontractors. For every subcontractor who will perform work under this Agreement, Consultant shall be responsible for such subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any contract with any subcontractor for work under this Agreement. Consultant shall be required to take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation, conducting a review of the certified payroll records of the subcontractor on a periodic basis or upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Consultant shall diligently take corrective action to halt or rectify any such failure by any subcontractor.”

VII. Section 2.1 (Contract Sum) of the Agreement is hereby amended to read in its entirety as follows:

“2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Eight Hundred Fifteen Thousand Two Hundred Fifteen Dollars and Twenty Four Cents (**\$815,215.24**) (the “Contract Sum”) (which is inclusive of applicable taxes), unless additional compensation is approved pursuant to Section 1.8. The Contract Sum reflects 73 LPR *Cameras (“Hardware”)* (as described in the Scope of Services) which ***shall be leased by City through the lease model (defined in Section 1.1.2 above), the number of which*** is subject to change depending on the final determination of City needs. ***City affirms that a purchase order or***

notice to proceed is not required for contract performance or for subsequent years of service, if any. At the time of execution of this Agreement, the City will provide all necessary reference information to include on invoices for payment in accordance with this Agreement. Consultant may increase any subscription fees prior to beginning a renewed subscription term after expiration of the initial 5 year subscription period. Consultant will notify City of the proposed increase in fees at least thirty (30) days prior to the renewal of a subscription. Any such increase in fees shall be memorialized in a formal amendment to this Agreement.”

VIII. Section 2.4 (Invoices) of the Agreement is hereby amended to read in its entirety as follows:

“2.4 Invoices.

Each month in arrears Consultant shall furnish to City an original invoice *in accordance with the agreed upon payment terms in Exhibit C* for all work performed and expenses incurred during the preceding month in a form approved by City’s Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories, if applicable: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will ~~use its best efforts to cause Consultant to be paid~~ within forty-five (45) days of receipt of Consultant’s correct and undisputed invoice; ~~however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period.~~ In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.”

IX. Section 2.6 (City Responsibilities) is hereby added to the Agreement to read in its entirety as follows:

“2.6 City Responsibilities.

City will ensure that information City provides to Consultant in connection with receipt of the LPRs and Services are accurate and complete in all material respects. City will make timely decisions and obtain any required management approvals that are reasonably necessary for Consultant to provide the LPRs and Services and perform its other duties under this Agreement. Consultant may rely upon and is not required to evaluate, confirm, reject, modify, or provide advice concerning any assumptions or City information, decisions, or approvals described in this Section.”

X. Section 3.4 (Term) of the Agreement is hereby amended to read in its entirety as follows:

“3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not ***later than*** ~~exceeding one (1) years from~~ the date ***the last of the LPRs (Hardware) is removed following the five (5) year subscription period of all the LPRs (Hardware)*** ~~hereof~~, except as otherwise provided in the Schedule of Performance (Exhibit “D”).”

XI. Section 4.1 (Representatives and Personnel of Consultant) of the Agreement is hereby amended to read in its entirety as follows:

“4.1 Representatives and Personnel of Consultant.

The following principals of Consultant (“Principals”) are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

(Name)	(Title)
(Name)	(Title)
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. ***Consultant shall notify the City in the event any Principals are replaced or shall no longer work on rendering services under this Agreement.*** ~~For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City.~~ Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make ~~every reasonable~~ ***commercially reasonable*** efforts to maintain the stability and continuity of Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any ***material*** changes in Consultant’s staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.”

XII. Section 4.5 (Prohibition Against Subcontracting or Assignment) of the Agreement is hereby amended to read in its entirety as follows:

“4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, *with the exception of certain subcontractors that may be utilized by Consultant in the event it should be determined that traffic control services are needed or new poles need to be installed*, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. *Neither Party may assign or otherwise transfer this Agreement without the prior written approval of the other Party. Consultant may assign or otherwise transfer this Agreement or any of its rights or obligations under this Agreement without consent (a) for financing purposes, (b) in connection with a merger, acquisition or sale of all or substantially all of its assets, or (c) as part of a corporate reorganization. Subject to the foregoing, this Agreement will be binding upon the Parties and their respective successors and assigns.* No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.”

XIII. Section 5.1 (Insurance Coverages) of the Agreement is hereby amended to read in its entirety as follows:

“5.1 Insurance Coverages.

The Consultant shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount *of not less than* \$2,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker’s Compensation Insurance. A policy of worker’s compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Consultant against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Consultant in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including “any auto” and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount *of not less than* \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Consultant’s profession. This coverage may be written on a “claims made” basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement

must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least **three (3) 5** consecutive years following the completion of Consultant's services or the termination of this Agreement. During this additional **three (3) 5**-year period, Consultant shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) **Cyber Liability.** *Technology professional liability errors & omissions insurance appropriate to Consultant's profession and the Services hereunder with limits not less than \$5,000,000 per claim/loss, and \$5,000,000 in the aggregate. Coverage shall be sufficiently broad to respond to the duties and obligations undertaken by Consultant pursuant to this Agreement and shall include, but not be limited to, claims involving infringement of intellectual property, copyright, trademark, invasion of privacy violations, information or data breach, theft, loss, damage or misuse, release of private information, extortion and network security. If coverage is maintained on a claims-made basis, Consultant shall maintain such coverage for an additional period of three (3) years following termination of the contract. The insurance shall include the following coverage:*

i. *Liability arising from the theft, dissemination and/or use of confidential or personally identifiable information; including credit monitoring and regulatory fines arising from such theft, dissemination or use of the confidential information.*

ii. *Network security liability arising from the unauthorized use of, access to, or tampering with computer systems.*

iii. *Liability arising from the failure of Consultant's proprietary technology products (software) required under the contract for Consultant to properly perform the services intended.*

iv. *Electronic Media Liability arising from personal injury, plagiarism or misappropriation of ideas, domain name infringement or improper deep-linking or framing, and infringement or violation of intellectual property rights.*

v. *Liability arising from the failure to render professional services as defined by industry standards appropriate to the technology being used.*

(f) **Subcontractors.** Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein-

(g) **Additional Insurance.** Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(h) **Broader Coverages and Higher Limits.** Notwithstanding anything else herein to the contrary, if Consultant maintains broader coverages and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverages and/or higher limits maintained by Consultant."

XIV. Section 5.2 (General Insurance Requirements) of the Agreement is hereby amended to read in its entirety as follows:

“5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall ~~name~~ **include** the City, its elected and appointed officers, employees and agents as additional insureds **as their interests may appear** and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Consultant’s insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended, non-renewed or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Consultant shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Consultant has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall ~~name~~ **include** the City as additional insured (providing the appropriate endorsement) and shall conform to the following “cancellation” notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]

Consultant Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Consultant performs; products and completed operations of Consultant; premises owned, occupied or used by Consultant; or any automobiles owned, leased, hired or borrowed by Consultant. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Consultant’s

insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

~~Any deductibles or self insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Consultant shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Consultant agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Consultant may be held responsible for the payment of damages to any persons or property resulting from the Consultant's activities or the activities of any person or persons for which the Consultant is otherwise responsible nor shall it limit the Consultant's indemnification liabilities as provided in Section 5.3.~~

In the event the Consultant subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Consultant and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Consultant is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

XV. Section 5.3 (Indemnification) of the Agreement is hereby renamed "General and Intellectual Property Indemnification," and amended to read in its entirety as follows:

"5.3 General and Intellectual Property Indemnification."

5.3.1 General Indemnity. To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold ~~and save them and each of them~~ harmless from, ***against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual third-party claim, demand, action, or proceeding ("Claim") for, including but not limited to, personal injury, death, or direct damage to tangible property to the extent caused by Consultant's negligence, gross negligence or willful misconduct while performing its duties under this Agreement, except to the extent the Claim arises from City's negligence or willful misconduct. City shall promptly notify Consultant in writing of the Claim and Consultant shall have sole control of the defense of the suit and all negotiations for its settlement or compromise. City will also cooperate with Consultant and, if requested by Consultant, provide reasonable assistance at Consultant's expense in the defense of the Claim.***

~~any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors' reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:~~

~~(a) — Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;~~

~~(b) — Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;~~

~~(c) — In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.~~

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefor, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. ~~This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The associated~~ indemnity *and defense* obligations shall be binding on successors and assigns of Consultant and shall survive *expiration or sooner* termination of this Agreement.

5.3.2 Intellectual Property Infringement. Consultant represents and warrants that it owns all intellectual property rights to the Products or otherwise is legally authorized to grant City the right to use the Products, and will defend and indemnify City against any third-party claim alleging that any of the Products (the "Infringing Product") directly infringes a United States patent, trademark or copyright ("Infringement Claim"), and Consultant will pay all defense costs and fees, including attorney's fees (except to the extent City elects to retain own legal counsel in addition to that retained by Consultant in which event City will bear the cost of its legal counsel's services), and damages finally awarded against City by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by Consultant in settlement of an Infringement Claim. City shall promptly notify Consultant in writing of the Infringement Claim and Consultant shall have sole control of the defense of the suit and all negotiations for its settlement or compromise. City will also cooperate with Consultant and, if requested by Consultant, provide reasonable assistance in the defense of the Infringement Claim.

If an Infringement Claim occurs, or in Consultant's opinion is likely to occur, Consultant may at its option and expense: (a) procure for City the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-

infringing; or (c) grant City (i) a pro-rated refund of any amounts pre-paid for the Infringing Product (if the Infringing Product is a software Product, i.e., Licensed Software) or (ii) a credit for the Infringing Product, less a reasonable charge for depreciation. Consultant's options set forth in this paragraph, whether or not exercised, shall in no way eliminate, reduce, curtail or abridge Consultant's obligations to indemnify and defend City in the event of an Infringement Claim.

In addition to the other damages disclaimed under this Agreement, Consultant will have no duty to defend or indemnify City for any Infringement Claim to the extent it arises from or is based upon: (a) City's data, any equipment or hardware provided by the City, Non-Consultant Content, or third-party equipment, hardware, software, data, or other third-party materials; (b) the combination of the Hardware, Licensed Software, or Service with any products or materials not provided by Consultant; (c) a modification of the Hardware, Licensed Software, or Service by a party other than Consultant; (d) use of the Product or Service in a manner for which the Product or Service was not designed or that is inconsistent with the terms of this Agreement; (e) the failure by City to use or install an update to the Product or Service that is intended to correct the claimed infringement; or (f) Hardware, software, or service designed, modified, or manufactured in accordance with City's designs, specifications, guidelines or instructions. In no event will Consultant's liability resulting from an Infringement Claim extend in any way to any payments due on a royalty basis, other than a reasonable royalty based upon revenue derived by Consultant from City from sales or license of the Infringing Product.

This Section 5.3.2 - Intellectual Property Infringement provides City's sole and exclusive remedies and Consultant's entire liability in the event of an Infringement Claim. The associated indemnity and defense obligations shall be binding on successors and assigns of Consultant and shall survive expiration or sooner termination of this Agreement."

XVI. Section 6.1 (Records) of the Agreement is hereby amended to read in its entirety as follows:

"6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement ~~and enable the Contract Officer to evaluate the performance of such services.~~ Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have ~~full and free access~~ **reasonable access** to such books and records at all times during normal business hours of ~~Consultant City~~, **with advance written notice** including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have **reasonable** access to such records **with advance written notice**, in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate

with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.”

XVII. Section 6.2 (Reports) of the Agreement is hereby amended to read in its entirety as follows:

“6.2 Reports.

~~Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.~~

XVIII. Section 6.3 (Ownership of Documents) of the Agreement is hereby renamed “Grant of License and Restrictions,” and amended to read in its entirety as follows:

“6.3 Grant of License and Restrictions. and Ownership of Documents.

Consultant grants to City, its employees, officials, and agents a limited, revocable, non-exclusive, non-transferrable, royalty-free license for the Term for City to use the Hardware and software associated with the Subscription Services (“Licensed Software”) (Hardware and Licensed Software together are “Products”) as described in the Scope of Services for law enforcement purposes. The City utilizes the Los Angeles County Sheriff’s Department (“LASD”) for its law enforcement services. Only LASD’s personnel who are personnel restricted to those permitted by applicable duly adopted LASD policies and procedures to access the Products and LPR Data (collectively, “Authorized Users”), may access the Products. The LPR Data may be accessed only by Authorized Users or another law enforcement or prosecutorial agency as permitted by City. Unless otherwise provided in this Agreement, the City may not distribute, transfer, resell, assign, rent, lease or sublicense any Products or any of the City’s rights under the license without the Consultant’s prior written consent. City will not and will not allow others, including the Authorized Users, to: (a) make the Licensed Software available for use by unauthorized third parties, including via a commercial rental or sharing arrangement; (b) reverse engineer, disassemble, or reprogram the Licensed Software or any portion thereof to a human-readable form; (c) modify, create derivative works of, or merge the Licensed Software with other software or equipment; (d) copy, reproduce, distribute, lend, lease, or transfer the Licensed Software or Documentation (as defined below) for or to any third party without the prior express written permission of Consultant; (e) take any action that would cause the Licensed Software or Documentation to be placed in the public domain; (f) use the Licensed Software to compete with Consultant; or (g) remove, alter, or obscure, any copyright or other notice. City acknowledges and agrees that Products may only be used for law enforcement purposes. Documentation shall be defined as documentation delivered with the

products/services or data that specifies technical and performance features, capabilities, users, or operation, including training manuals, and other deliverables, such as reports, specifications, designs, plans, drawings, analytics, or other information (collectively, “Documentation”). Documentation is and will be owned by Consultant, unless otherwise expressly agreed upon in writing by both parties. Consultant hereby grants City a limited, royalty-free, worldwide, non-exclusive license to use the Documentation solely for its internal business purposes in connection with the Products and Services.”

~~All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City’s sole risk and without liability to Consultant, and Consultant’s guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.”~~

XIX. Section 6.4 (Confidentiality and Release of Information) of the Agreement is hereby amended to read in its entirety as follows:

“6.4 Confidentiality and Release of Information.

(a) All information *provided from the City specifically to Consultant for the creation of work product* ~~gained~~ or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer. ***For the purposes of this Agreement, the only work product created for the City will be a Site Plan which shall address the location(s) of the Hardware to be installed.***

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.

~~(c) — If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorneys fees, caused by or incurred as a result of Consultant's conduct.~~

(c~~d~~) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

(d) *“Confidential Information” may include but is not necessarily be limited to non-public information provided by one Party (“Discloser”) to the other (“Recipient”) that is disclosed under this Agreement in oral, written, graphic, machine recognizable, or sample form, being clearly designated, labeled or marked as confidential or its equivalent or that a reasonable businessperson would consider non-public and confidential by its nature. With respect to Consultant, Confidential Information will also include Products and Services, and Documentation, as well as any other information relating to the Products and Services.*

(e) *Obligations of Confidentiality. During the Term and for a period of three (3) years from the expiration or termination of this Agreement, Recipient will (a) not disclose Confidential Information to any third party, except as expressly permitted in this Subsection (f), restrict disclosure of Confidential Information to only those employees (including, employees of any wholly owned subsidiary, a parent company, any other wholly owned subsidiaries of the same parent company), agents or consultants who must access the Confidential Information for the purpose of, and who are bound by confidentiality terms substantially similar to those in, this Agreement; (c) not copy, reproduce, reverse engineer, de-compile or disassemble any Confidential Information; (d) use the same degree of care as for its own information of like importance, but at least use reasonable care, in safeguarding against disclosure of Confidential Information; (e) promptly notify Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (f) only use the Confidential Information as needed to fulfill its obligations and secure its rights under this Agreement.*

(f) *Exceptions. Recipient is not obligated to maintain as confidential any information that Recipient can demonstrate by documentation (a) is publicly available at the time of disclosure or becomes available to the public without breach of this Agreement; (b) is lawfully obtained from a third party without a duty of confidentiality to Discloser; (c) is otherwise lawfully known to Recipient prior to such disclosure without a duty of confidentiality to Discloser; or (d) is independently developed by Recipient without the use of, or reference to, any of Discloser's Confidential Information or any breach of this Agreement. Additionally,*

Recipient may disclose Confidential Information to the extent required by law, including a judicial or legislative order or proceeding.

(g) Ownership of Confidential Information. All Confidential Information is and will remain the property of Discloser and will not be copied or reproduced without the express written permission of Discloser (including as permitted herein). Within ten (10) days of receipt of Discloser's written request, Recipient will return or destroy all Confidential Information to Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed. However, Recipient may retain (a) one (1) archival copy of the Confidential Information for use only in case of a dispute concerning this Agreement and (b) Confidential Information that has been automatically stored in accordance with Recipient's standard backup or recordkeeping procedures, provided, however that Recipient will remain subject to the obligations of this Agreement with respect to any Confidential Information retained subject to Subsections (a) or (b). No license, express or implied, in the Confidential Information is granted to the Recipient other than to use the Confidential Information in the manner and to the extent authorized by this Agreement. Discloser represents and warrants that it is authorized to disclose any Confidential Information it discloses pursuant to this Agreement.

(h) Notwithstanding anything else to the contrary in this Section 6.4, Confidential Information in City's possession shall be subject to the California Public Records Act in all respects.

XX. Section 6.5 (Ownership of City LPR Data) is hereby added to the Agreement to read in its entirety as follows:

"6.5 Ownership of City LPR Data.

City retains all right, title and interest, including intellectual property rights, if any, in and to license plate recognition data collected by the City, its Authorized Users, and their end users using the Hardware ("City LPR Data"). Notwithstanding the foregoing, any data collected by private sources and available on LEARN with a paid subscription shall remain the sole and exclusive property of Consultant."

XXI. Section 6.6 (Consultant's Use of City LPR Data) is hereby added to the Agreement to read in its entirety as follows:

"6.6 Consultant's Use of City LPR Data.

To the extent permitted by law, City grants Consultant the right to use City LPR Data and a royalty-free, worldwide, non-exclusive license to use City LPR Data (including to process, host, cache, store, reproduce, copy, modify, combine, analyze, create derivative works from such City LPR Data and to communicate, transmit, and distribute such City LPR Data to third parties engaged by Consultant to the extent permitted under this Agreement) to the extent reasonably necessary to allow Consultant to perform the Services."

XXII. Section 6.7 (City LPR Data Sharing, Retention and Deletion) is hereby added to the Agreement to read in its entirety as follows:

“6.7 City LPR Data Sharing, Retention and Deletion.

Except as expressly provided otherwise under the Agreement, Consultant will send all City LPR Data directly to LASD's existing LEARN account, and Consultant will not access such data in LEARN except as necessary to provide Services under this Agreement. City has the option to share its City LPR Data with other law enforcement agencies (“LEAs”) who contract with Consultant for LEARN access. If City opts, in its sole discretion, to share such data with another customer, by sharing such data, City will be granting to the recipient customer the rights to use such data in accordance with the terms of LEARN, as applicable. The Hardware will be set/programmed by City for a five (5) year retention period after which time City LPR Data will be permanently deleted from LEARN. If requested by City, Consultant shall provide City with technical assistance setting the retention period.”

XXIII. Section 6.8 (Access to LEARN) is hereby added to the Agreement to read in its entirety as follows:

“6.8 Access to LEARN.

Use of and access to LEARN is strictly restricted to the authorized LEAs. Consultant in its sole discretion may deny access to LEARN to any individual based on such person’s failure to satisfy the requirements set forth hereunder. City will ensure no user logins are provided to agents or officers of other local, state, or Federal LEAs without the express written consent of Consultant. City will be responsible for all Authorized Users’ use of or access to, LEARN, through use of City login credentials. City shall notify Consultant immediately if City believes the password of any of its Authorized Users has, or may have, been obtained or used by any unauthorized person(s). In addition, City must notify Consultant immediately if City becomes aware of any other breach or attempted breach of the security of any of its users’ accounts.”

XXIV. Section 7.7 (Termination Prior to Expiration of Term) is hereby amended to read in its entirety as follows:

“7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days’ written notice to Consultant, except that where termination is due to the fault of the Consultant, ***City may terminate at any time following the appropriate notice and cure period set out in Section 7.2 and Consultant’s failure to cure the default***~~the period of notice may be such shorter time as may be determined by the Contract Officer.~~ In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days’ written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for ***any Early Termination Fees associated with lease of Hardware (as specified in Section 7.10), as well as*** all services rendered prior to the effective date of the notice

of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, ~~except as provided in Section 7.3.~~ In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the ~~services work-product~~ actually produced hereunder **and products delivered**. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2. ***Notwithstanding the foregoing, if the City terminates for convenience, Consultant will not provide a pro-rata refund for any subscription services (including software and hardware subscription).***”

XV. Section 7.10 (Early Termination and Fee; Option to Purchase) is hereby added to the Agreement to read in its entirety as follows:

“7.10 Early Termination and Fee; Option to Purchase.

City understands and agrees that the provision of Hardware is priced based on the five year Hardware Commitment Term. If the City terminates without cause prior to the end of the Hardware Commitment Term, City will pay Consultant, within ninety (90) days of the date of termination, an “Early Termination Fee.”

The Early Termination Fee will be the pro-rated remainder of the aggregate Hardware MSRP price (at the discounted MSRP price of \$3,500 per Hardware item prevailing as of the time of delivery) for each item of Hardware, calculated by multiplying the discounted MSRP price of all Hardware leased under the Agreement by the percentage resulting from dividing the number of months remaining in the Hardware Commitment Term applicable to such Hardware by sixty (60). In the event City leased Hardware on multiple dates, resulting in separate Hardware Commitment Terms for certain Hardware, the preceding calculation will be made relative to the applicable Hardware Commitment Term for each Hardware order. For example, if the City leased \$1,000 worth of Hardware on January 1 of Year 1 of the term, and then \$1,000 worth of Hardware on January 1 of Year 2, and then the City terminates on December 31 of Year 3, the City will be required to repay: $\$1,000 \times (24/60) + \$1,000 \times (36/60)$, which is equal to \$1,000 in the aggregate. For purposes of convenience, Consultant has provided the following table to more easily describe the Early Termination Fee, if terminated at the end of each year. If terminated during the middle of a contract year, the termination fee would be calculated as described above using \$3,500/unit as the MSRP price.

Termination Penalty per Unit	Year 1	Year 2	Year 3	Year 4	Year 5
	\$2,808	\$2,106	\$1,404	\$702	\$0

Additionally, at the end of the Hardware Commitment Term, City shall have the option of purchasing any item of Hardware at a cost of \$1.00. City may exercise its option to purchase the Hardware by notifying Consultant of such election at least sixty (60) calendar days prior to the end of the Hardware Commitment Term.

Upon expiration or termination of this Agreement for any reason, at its cost City will return the Hardware to Consultant to an address of Consultant's choosing within thirty (30) days of the date of expiration or termination; provided, however, that City does not elect to purchase the Hardware. Alternatively, City may choose to pay Consultant a \$150 fee per item of Hardware for Consultant to remove the Hardware and ship back to Consultant."

XXVI. Section 7.11 (Termination and Data Transfer) is hereby added to the Agreement to read in its entirety as follows:

"7.11 Termination and Data Transfer.

Following the end of any Hardware Commitment Term, where applicable City's access to Licensed Software with respect to the associated Hardware will expire, and City must download or transfer all City LPR Data associated with the applicable Hardware within thirty (30) days following expiration unless City purchases extended access to the Licensed Software from Consultant at the prevailing rates. Consultant has no obligation to retain City LPR Data for expired Hardware beyond thirty (30) days following expiration of the applicable Hardware Commitment Term.

Exclusions. CONSULTANT WILL HAVE NO LIABILITY FOR AND WILL NOT BE RESPONSIBLE FOR MAINTENANCE DUE TO OR ASSOCIATED WITH (A) DEFECTS IN OR DAMAGE TO HARDWARE RESULTING FROM USE OTHER THAN IN THE NORMAL AUTHORIZED MANNER, OR RESULTING FROM CITY'S FAULT; (B) TESTING, MAINTENANCE, REPAIR, INSTALLATION, OR MODIFICATION BY PARTIES OTHER THAN CONSULTANT; (C) CITY'S OR ANY AUTHORIZED USER'S FAILURE TO COMPLY WITH INDUSTRY AND OSHA OR OTHER LEGAL STANDARDS; (D) HARDWARE WITH NO SERIAL NUMBER; (E) BATTERIES OR CONSUMABLES; (F) FREIGHT COSTS FOR SHIPMENT TO REPAIR DEPOTS RESULTING FROM CITY'S FAULT; (G) NORMAL WEAR AND TEAR (SUCH AS COSMETIC DAMAGE) THAT DOES NOT AFFECT OPERATION; (H) ISSUES OR OBSOLESCENCE OF LICENSED SOFTWARE DUE TO CHANGES IN CITY OR AUTHORIZED USER REQUIREMENTS, HARDWARE, OR SYSTEMS; OR (I) TRACKING AND LOCATION-BASED SERVICES."

XXVII. Section 7.12 (Limitation of Liability) is hereby added to the Agreement to read in its entirety as follows:

"7.12 Limitation of Liability.

Neither party will be liable in connection with this Agreement for any indirect, incidental, special, exemplary, punitive or consequential damages for lost profits or revenues, even if one party has been advised of the possibility of such damages or losses and whether or not such damages or losses are foreseeable.

EXCEPT FOR GROSS NEGLIGENCE, INTENTIONAL MISCONDUCT, PERSONAL INJURY, TANGIBLE PROPERTY DAMAGE, OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE CONSULTANT PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE AGREEMENT WILL NOT EXCEED THE TOTAL FEES PAID DURING THE CONSECUTIVE EIGHTEEN (18) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT FROM WHICH THE FIRST CLAIM AROSE ”

EXHIBIT "C"
SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following rates:

Lease and Subscription: **Years 1-5**

Qty	Item #	Description
73	VSFS-L6Q-S-SUB	L6Q Quick Deploy Camera (Solar Kit) Subscription
	(\$1,950.00 each)	<u>Includes:</u> One (1) L6Q camera with two (2) Lex-11 high capacity internal batteries Solar Kit (40W solar panel, mounting bracket, charge controller, 12 Ah battery, Cable with M12 power connector) Camera mounting bracket USB-C cable and USB-C to USB-A adapter, Micro SD card, SIM card with cellular service <u>Requirements:</u> o Hosted LPR account for data storage, alerting, analytics and more <u>Subscription Info:</u> o Annual Subscription w/ Warranty & Software Service included; The monthly invoice will be calculated as 1/12 of the annual subscription fee based upon the number of Hardware units leased.

Price Per Annum:	\$142,350
Y1: (73 cameras at \$1,950 each)	\$142,350
Y2: (73 cameras at \$1,950 each)	\$142,350
Y3: (73 cameras at \$1,950 each)	\$142,350
Y4: (73 cameras at \$1,950 each)	\$142,350
Y5: (73 cameras at \$1,950 each)	\$142,350
SUBTOTAL:	\$711,750
Sales Tax (@10.25% of \$1,950 each = \$199.88 each):	\$14,591.24
<u>TOTAL:</u>	<u>\$726,341.24</u>

Technical Services (start-up/commissioning): **Year 1**

Qty	Item #	Description
73	SSU-SYS-L6Q-COM (\$426.00 each)	System Start Up & Commissioning <u>Includes:</u> Configuration of L6Q Solar LPR system(s) and Solar Panel Installation and alignment of L6Q on existing infrastructure Travel costs for Vigilant certified technician to visit sites and provide onsite support

Price: **\$31,098**

Delivery: **Year 1**

Qty	Item #	Description
73	VS-SHP-02 (\$55.00 each)	Vigilant Shipping Charges Applies to each fixed camera LPR System Shipping method is FOB shipping

Price: **\$4,015**

Damage/Theft Insurance: **Years 1-5**

Qty	Item #	Description
73	L6Q-REPPLAN (\$100.00 each)	L6Q Annual Replacement Plan Annual L6Q replacement plan covers loss due to theft, vandalism, collisions (whether or not due to fault of Consultant or City), and or natural disasters only. 1 L6Q annual replacement included and \$499 for any additional camera replacements. The replacement plan is per camera. The monthly invoice will be calculated as 1/12 of the annual subscription fee based upon the number of Hardware units leased.

Price Per Annum: **\$7,300**

Y1:	(73 cameras at \$100 each)	\$7,300
Y2:	(73 cameras at \$100 each)	\$7,300
Y3:	(73 cameras at \$100 each)	\$7,300

Y4:	(73 cameras at \$100 each)	\$7,300
Y5:	(73 cameras at \$100 each)	\$7,300

SUBTOTAL:	\$36,500
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<u>Traffic Control*:</u>	<u>Year 1</u>
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Per Location Cost:

For engineered locations:	\$800
For non-engineered locations:	\$400

Allotted Price:	\$8,000
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<u>New Poles*:</u>	<u>Year 1</u>
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*ONLY Galvanized Square Pole that is 14 feet and embedded in a dirt ground

Per Pole/foundation Cost \$1,323 (inclusive of taxes)**

Allotted Price (inclusive of taxes):
\$9,261

GRAND TOTAL:	\$815,215.24***
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*These items are only on a contingency, as-needed, basis. Cost will increase for new poles if concrete is needed. The cost to be negotiated by the parties.

**This cost will increase if concrete is needed. The cost is to be negotiated by the parties.

***This amount is subject to change depending on the determination of the number of Hardware items to be installed after consultation between City and Consultant in accordance with the Scope of Services, and depending on any need for traffic control and new poles. Upon expiration or termination of this Agreement, City will remove and return the Hardware to Consultant at its cost. Alternatively, if the City chooses to have the Consultant remove the Hardware, the City will pay Consultant \$150 per Hardware item for removal and return. Sales taxes included in this Exhibit "C" utilize a 10.25% sales tax rate. If sales tax rates change for any reason, the then applicable sales tax rate will apply.

***At the end of the first year of the Agreement and each year thereafter, a CPI percentage change calculation shall be performed using the U.S. Department of Labor, Consumer Price Index, "All Items," Unadjusted Urban Areas (CPI-U). Should the annual inflation rate increase greater than 5% during the previous year, Consultant shall have the right to increase all future subscription prices by the CPI increase amount exceeding 5%. "All Items," not seasonally adjusted shall be used as the measure of CPI for this price adjustment. The adjustment calculation will be based upon the CPI for the most recent

twelve (12) month increment beginning from the most current month available as posted by the U.S. Department of Labor (<http://www.bls.gov>) immediately preceding the new subscription year. For purposes of illustration, if in Year 5 the CPI reported an increase of 8%, Consultant may increase the Year 6 price by 3% (8%-5% base). Any pricing change would be incorporated by the parties entering into a duly authorized and approved amendment to this Agreement.

- II. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.8.**
- III. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**
 - A.** Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
 - B.** Line items for all materials and equipment properly charged to the Services.
 - C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
 - D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- IV. The total compensation for the Services shall not exceed \$815,215.24 as provided in Section 2.1 of this Agreement.**

EXHIBIT “D”
SCHEDULE OF PERFORMANCE

I. Consultant shall perform all services timely in accordance with the following schedule:

	<u>Deadline Date</u>
A. Consulting Services	Ongoing
B. Order Equipment	1 week after Notice to Proceed is issued
C. LPR Delivery	7 weeks after Notice to Proceed is issued
D. LPR Installation, Start-up and Commissioning	About 1 week following delivery (presuming existing poles/infrastructure and contingent upon reasonably safe weather conditions)
E. Equipment Report Containing camera serial numbers and installation date	1 week following installation
F. Subscription Period	5 years after installation of each LPR, understanding that the installation dates will differ for each LRP
G. Technical Services	During the subscription periods
H. Removal of LPRs	Upon expiration of subscription periods

II. Consultant shall deliver the following tangible work products to the City by the following dates.

A. As described in Exhibit A, Section I.

III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.