

4600011953
2013-0392

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

1. PARTIES

1.1. Addresses of the Parties.

1.1.1. **THIS AGREEMENT FOR APPLICATION HOSTING SERVICES AND MAINTENANCE** (the "Agreement") is made on the Countersignature Date between the **CITY OF HOUSTON, TEXAS** (the "City"), a Texas home-rule city, and **HR GREEN, INC.** (the "Contractor"), an Iowa corporation authorized to do business in Texas. The City and Contractor maybe be referred to herein individually as a "Party" or collectively as the "Parties".

1.1.2. The initial addresses of the Parties, which one Party may change by giving written notice to the other Party, are as follows:

City

City Purchasing Agent
City of Houston
P.O. Box 1562
Houston, Texas 77251

Contractor

HR Green, Inc.
8710 Earhart Lane, SW
Cedar Rapids, IA 52404

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1.3. Parts Incorporated.

The above described Exhibits are incorporated into this Agreement

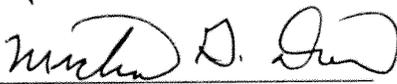
1.4. Controlling Parts.

If a conflict among the Sections and Exhibits arises, the Sections control over the Exhibits.

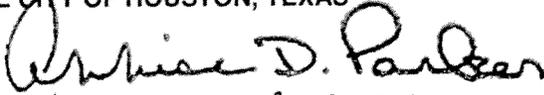
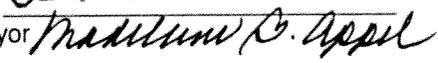
1.5. Signatures.

The Parties have executed this Agreement in multiple copies, each of which is an original.

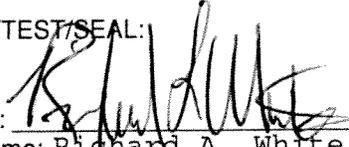
CONTRACTOR:
HR GREEN, INC.

By: 
Name: Michael G. Daniel
Title: CEO

CITY:
THE CITY OF HOUSTON, TEXAS

By: 
Mayor 

ATTEST/SEAL:

By: 
Name: Richard A. White
Title: President

ATTEST/SEAL:

By: 
City Secretary

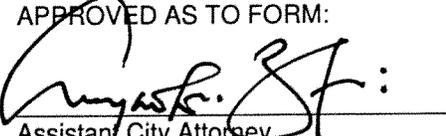
Tax Identification

42-0927178

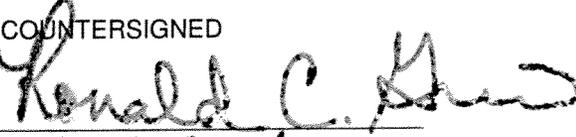
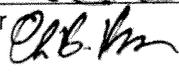
APPROVED:


City Purchasing Agent

APPROVED AS TO FORM:


Assistant City Attorney
L.D. File No. 0371300005001

COUNTERSIGNED


City Controller 

DATE COUNTERSIGNED

5-14-13

2. DEFINITIONS

As used in this Agreement, the following terms have the meanings set out below:

- 2.1. "Additional Services" are any feature enhancements to the Solution requested by the Director and agreed to by both parties in writing during the Term.
- 2.2. "Administration & Regulatory Affairs Department (ARA)" is responsible for administering commercial permitting and transportation operations.
- 2.3. "Agreement" means this contract between the Parties, including all exhibits and any written amendments authorized by City Council and Contractor.
- 2.4. "Availability" is the time that a system is available for use and is typically measured as a percentage of total measureable time. Because all systems require periodic maintenance, a 24 x 7 system would not be expected to be available 100% of the time. For example, a 24 x 7 system, with a two (2)-hour daily maintenance window, that is available 99.9% of the time would suffer unscheduled outages totaling less than 8.04 hours during any given 365-day period ($[365 * (24-2)] * [1 - .999]$).
- 2.5. "Basic Services" are the services set out in Exhibit A (Scope of Services).
- 2.6. "City" is defined in the preamble of this Agreement and includes its successors and assigns. City and "City of Houston" are used interchangeably.
- 2.7. "City Ordinance" and "Ordinance" are used interchangeably and refer to all City of Houston Ordinances.
- 2.8. "City Purchasing Agent" means the City's Purchasing Agent, or the person he or she designates.
- 2.9. "Configuration" is used to describe the changing of parameters that control system behavior.
- 2.10. "Contractor" is defined in the preamble of this Agreement and includes its successors and assigns.
- 2.11. "CPE" refers to the Commercial Permitting and Enforcement Section within Administration & Regulatory Affairs with direct responsibility for administering commercial permitting operations.
- 2.12. "Customization" and "Modification" are used to describe the changing and/or enhancing of software program code.
- 2.13. "Director" means the Director of the Administration and Regulatory Affairs Department, or the person he or she designates.
- 2.14. "Documents" mean notes, manuals, notebooks, plans, computations, databases, tabulations, exhibits, reports, underlying data, charts, analyses, maps, letters, models, forms, photographs, the original tracings of all drawings and plans, and other work

products (and any modifications or improvements to them) that Contractor prepares or provides under this Agreement.

- 2.15. "Effective Date" means the date shown as the date countersigned by the City Controller on the signature page of this Agreement.
- 2.16. "Hosted Solution" refers to a software deployment at a Contractor site that is available for use by City. With a fully-hosted solution, no hardware or software would be deployed to servers at the City.
- 2.17. "Houston Police Department (HPD)" is responsible for administering the issuance of traffic accident reports.
- 2.18. "Inspection" refers to the process by which the information contained in a permit application is verified to conform to applicable City ordinances and/or State statutes.
- 2.19. "IT", "ITD" and "HITS" are used to refer to individuals in the City of Houston's Information Technology Department that will support the implementation of the new system.
- 2.20. "Notice to Proceed" means a written communication from the City Purchasing Agent to Contractor instructing Contractor to begin performance.
- 2.21. "Party" and "Parties" are defined in the preamble of this Agreement.
- 2.22. "PCI" refers to Payment Card Industry.
- 2.23. "PCI-DSS Compliance" refers to the ability of a Contractor's solution to comply with the PCI Data Security Standards for protecting credit card and credit card transaction data.
- 2.24. "Response Time" refers to the time that a user waits between transactions. For example, during data entry, the system response time is the time beginning when the user presses the enter key (or clicks the submit button) and ending when the system becomes available to begin the next transaction. For acceptance purposes, response times will be measured within a closed environment; that is, in an environment that is not influenced by factors outside the Contractor's reasonable control, like the Internet, firewalls, switches/routers, etc.
- 2.25. "Scheduled" and "Unscheduled Outages" – Scheduled outages are periods during which a system is taken down for routine maintenance. Typically, scheduled outages can be planned weeks or months in advance. Outages occurring with less than 24 hours' notice would be characterized as unscheduled outages. Scheduled outages would not be counted against an availability standard. Unscheduled outages would.
- 2.26. "Site" and "Location" – Site is used to describe the physical location at which a Contractor will conduct business that is subject to City licensing and permitting ordinances. Location is used to describe the physical location at which the Contractor shall perform any on-site work for the City.

- 2.27. "Solution," "System," "Permitting System," and "Application" are used interchangeably and refer to the Contractor's primary product offering, and also includes supporting software that is essential to the application's proper function.
- 2.28. "TRN" refers to the Transportation Section within Administration & Regulatory Affairs with direct responsibility for administering vehicle for hire permitting operations.
- 2.29. "Vendor" is used to describe the individuals and/or organizations chosen to provide the selected system.

3. DUTIES OF CONTRACTOR

3.1. Scope of Services.

In consideration of the payments specified in Exhibit B (Fee Payment Schedule) of this Agreement, Contractor shall provide all the labor, materials and supervision necessary to perform the services described in Exhibit A (Scope of Services). From time to time during the Term, Contractor shall also provide Additional Services (as described in Section 4.1.2) that may be requested by the Director.

3.2. Coordinate Performance.

Contractor shall coordinate its performance with the Director and other persons that the Director designates. Contractor shall promptly inform the Director and other person(s) of all significant events relating to the performance of this Agreement.

3.3. Payment of Subcontractors.

Contractor shall make timely payments to all persons and entities supplying labor, materials, or equipment for the performance of this Agreement. CONTRACTOR SHALL DEFEND AND INDEMNIFY THE CITY FROM ANY CLAIMS OR LIABILITY ARISING OUT OF CONTRACTOR'S FAILURE TO MAKE THESE PAYMENTS, EXCEPT WHERE SUCH FAILURES ARE DUE TO THE ACTIONS OR INACTIONS OF THE CITY. Contractor shall submit disputes relating to payment of MWBE subcontractors to arbitration in the same manner as any other disputes under the MWBE subcontract.

3.4. INDEMNIFICATION.

CONTRACTOR AGREES TO AND SHALL INDEMNIFY AND HOLD THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") HARMLESS FOR ALL CLAIMS, CAUSES OF ACTION, LIABILITIES, FINES, AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER REASONABLE DEFENSE COSTS AND INTEREST) FOR INJURY, DEATH, DAMAGE, OR LOSS TO PERSONS OR PROPERTY TO THE EXTENT CAUSED BY THE CONTRACTOR'S NEGLIGENT PERFORMANCE UNDER THIS AGREEMENT INCLUDING, WITHOUT LIMITATION, THOSE CAUSED BY:

- (1) CONTRACTOR'S AND/OR ITS AGENTS', EMPLOYEES', OFFICERS', DIRECTORS', CONTRACTORS', OR SUBCONTRACTORS' (COLLECTIVELY IN NUMBERED PARAGRAPHS 1-3, "CONTRACTOR") NEGLIGENCE OR INTENTIONAL ACTS OR OMISSIONS;
- (2) THE CITY'S AND CONTRACTOR'S CONCURRENT NEGLIGENCE, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT; AND
- (3) THE CITY'S AND CONTRACTOR'S STRICT PRODUCTS LIABILITY OR STRICT STATUTORY LIABILITY, WHETHER CONTRACTOR IS IMMUNE FROM LIABILITY OR NOT.

CONTRACTOR SHALL DEFEND, INDEMNIFY, AND HOLD THE CITY HARMLESS

DURING THE TERM OF THIS AGREEMENT AND FOR FOUR YEARS AFTER THE AGREEMENT TERMINATES. CONTRACTOR'S INDEMNIFICATION IS LIMITED TO \$500,000 PER OCCURRENCE. CONTRACTOR SHALL NOT INDEMNIFY THE CITY FOR THE CITY'S SOLE NEGLIGENCE.

3.5. INDEMNIFICATION – PATENT, COPYRIGHT, TRADEMARK, AND TRADE SECRET INFRINGEMENT.

3.5.1. CONTRACTOR AGREES TO AND SHALL DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, ITS AGENTS, EMPLOYEES, OFFICERS, AND LEGAL REPRESENTATIVES (COLLECTIVELY THE "CITY") FROM ALL CLAIMS OR CAUSES OF ACTION BROUGHT AGAINST THE CITY ALLEGING THAT THE CITY'S USE OF ANY EQUIPMENT, SOFTWARE, PROCESS, OR DOCUMENTS CONTRACTOR FURNISHES DURING THE TERM OF THIS AGREEMENT INFRINGES ON A PATENT, COPYRIGHT, OR TRADEMARK, OR MISAPPROPRIATES A TRADE SECRET. CONTRACTOR SHALL PAY ALL COSTS (INCLUDING, WITHOUT LIMITATION, ATTORNEYS' FEES, COURT COSTS, AND ALL OTHER DEFENSE COSTS, AND INTEREST) AND DAMAGES AWARDED.

3.5.2. CONTRACTOR SHALL NOT SETTLE ANY CLAIM ON TERMS WHICH PREVENT THE CITY FROM USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS WITHOUT THE CITY'S PRIOR WRITTEN CONSENT. WITHIN 60 DAYS AFTER BEING NOTIFIED OF THE CLAIM, CONTRACTOR SHALL, AT ITS OWN EXPENSE, EITHER (1) OBTAIN FOR THE CITY THE RIGHT TO CONTINUE USING THE EQUIPMENT, SOFTWARE, PROCESS, AND DOCUMENTS OR, (2) IF BOTH PARTIES AGREE, REPLACE OR MODIFY THEM WITH COMPATIBLE AND FUNCTIONALLY EQUIVALENT PRODUCTS. IF NONE OF THESE ALTERNATIVES IS REASONABLY AVAILABLE, THE CITY MAY RETURN THE EQUIPMENT, SOFTWARE, OR DOCUMENTS, OR DISCONTINUE THE PROCESS, AND CONTRACTOR SHALL REFUND THE PURCHASE PRICE.

3.6. INDEMNIFICATION – SUBCONTRACTOR'S INDEMNITY.

CONTRACTOR SHALL REQUIRE ALL OF ITS SUBCONTRACTORS (AND THEIR SUBCONTRACTORS) TO RELEASE AND INDEMNIFY THE CITY TO THE SAME EXTENT AND IN SUBSTANTIALLY THE SAME FORM AS ITS RELEASE AND INDEMNITY TO THE CITY.

3.7. INDEMNIFICATION – PROCEDURES.

3.7.1. Notice of Claims. If the City or Contractor receives notice of any claim or circumstances which could give rise to an indemnified loss, the receiving party shall give written notice to the other party within 10 days. The notice must include the following:

- (a) a description of the indemnification event in reasonable detail,
- (b) the basis on which indemnification may be due, and
- (c) the anticipated amount of the indemnified loss.

This notice does not stop or prevent the City from later asserting a different basis for indemnification or a different amount of indemnified loss than that indicated in the initial notice. If the City does not provide this notice within the 10 day period, it does not waive any right to indemnification except to the extent that Contractor is prejudiced, suffers loss, or incurs expense because of the delay.

3.7.2. Defense of Claims.

(a) Assumption of Defense. Contractor may assume the defense of the claim at its own expense with counsel chosen by it that is reasonably satisfactory to the City. Contractor shall then control the defense and any negotiations to settle the claim. Within 10 days after receiving written notice of the indemnification request, Contractor must advise the City as to whether or not it will defend the claim. If Contractor does not assume the defense, the City shall assume and control the defense, and all defense expenses constitute an indemnification loss.

(b) Continued Participation. If Contractor elects to defend the claim, the City may, at its own cost, retain separate counsel to participate in (but not control) the defense and to participate in (but not control) any settlement negotiations. Contractor may settle the claim without the consent or agreement of the City, unless it (i) would result in injunctive relief or other equitable remedies or otherwise require the City to comply with restrictions or limitations that adversely affect the City, (ii) would require the City to pay amounts that Contractor does not fund in full, (iii) would not result in the City's full and complete release from all liability to the plaintiffs or claimants who are parties to or otherwise bound by the settlement.

3.8. Insurance.

Contractor shall maintain in effect certain insurance coverage and shall furnish certificates of insurance, in duplicate form, before beginning its performance under this Agreement. All policies except Professional Liability and Worker's Compensation must name the City as an additional insured. The insurer (1) shall have a Certificate of Authority to transact insurance business in Texas or (2) shall be an eligible non-admitted insurer in the State of Texas and have a Best's rating of at least B+ and a Best's Financial Size Category of Class VI or better, according to the most current edition Best's Key Rating Guide. Contractor shall maintain the following insurance coverages in the following amounts:

- (1) Commercial General Liability insurance including Contractual Liability insurance:
 - \$500,000 per occurrence; \$1,000,000 aggregate
- (2) Worker's Compensation including Broad Form All States endorsement:
 - Statutory amount
- (3) Professional Liability
 - \$1,000,000 per occurrence; \$1,000,000 aggregate
- (4) Automobile Liability insurance

- \$1,000,000 combined single limit

Defense costs are excluded from the face amount of the policy.

Aggregate Limits are per 12-month policy period unless otherwise indicated.

All insurance policies must require on their face, or by endorsement, that the insurance carrier waives any rights of subrogation against the City. **CONTRACTOR SHALL GIVE 30 DAYS' ADVANCE WRITTEN NOTICE TO THE DIRECTOR IF ANY OF ITS INSURANCE POLICIES ARE CANCELLED, MATERIALLY CHANGED OR NON-RENEWED.** Within the 30 day period, Contractor shall provide other suitable policies in lieu of those about to be cancelled, materially changed, or non-renewed so as to maintain in effect the required coverage. If Contractor does not comply with this requirement, the City Purchasing Agent, at his or her sole discretion, may

- (1) immediately suspend Contractor from any further performance under this Agreement and begin procedures to terminate for default, or
- (2) purchase the required insurance with City funds and deduct the cost of the premiums from amounts due to Contractor under this Agreement.

3.9. Warranties.

3.9.1. The Contractor warrants that all services performed under this Agreement will be free from defects in workmanship and conform to the requirements of this Agreement and shall be performed in a professional and competent manner by individuals possessing the quality, care, skills, experience and education necessary to provide the services in accordance with this Agreement and the professional standards prevailing in the global software industry applied in Harris County, Texas with respect to the products and services Contractor provides under this Agreement.

3.9.2. Contractor hereby represents and warrants to the City that (i) it has all requisite corporate power and authority to enter into this Agreement and to carry out the transactions contemplated hereby, (ii) it is authorized to carryout business in Texas; (iii) the execution, delivery, and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly authorized by all requisite corporate action on the part of the Contractor, (iv) this Agreement has been duly executed and delivered by the Contractor and is a valid and binding obligation of the Contractor and enforceable against it in accordance with its provisions, and (v) the Contractor's entry into this Agreement does not violate or constitute a breach of any agreement to which it is a party or otherwise bound.

3.9.3. Contractor represents and warrants that Contractor has a contractual business partner relationship with GovPartner Corporation whereby Contractor sells, implements and supports the GovPartner suite of products and provides a customized, system-configuration software program from GovPartner.

3.9.4. Contractor represents and warrants that the Services shall perform substantially in accordance with its applicable documentation, be reasonably free from material programming, data processing and logic errors, and shall comply with the service levels set out in Exhibit A (Scope of Services).

3.9.5. Contractor shall implement commercially reasonable security precautions commensurate with those standards in the industry to prevent unauthorized access to, use of, disruption to the services and to the City's materials, facilities, software, hardware and/or communication lines related to the services.

3.9.6. Contractor shall notify the City immediately upon discovery of any known problems that could adversely affect the City's access or use of the services.

3.10. Service Level Warranty.

Contractor warrants during the Term that the i) Network Availability; and ii) Response Times will meet the applicable service levels set out in Exhibit A, Sections 8.3.4 and 12.5 respectively. If Contractor does not achieve such service levels, Contractor will provide City upon request with a credit as described below. To claim a remedy under this section, City will notify vendor within 15 days of the occurrence of the failure to provide the applicable service level.

3.11. Credits for Service Interruptions.

3.11.1. In the event that Contractor's network availability falls below the 99.9% availability during any calendar month, Contractor will credit City with 2% of the annual hosting and maintenance services fees for each day the network Availability was below 99.9%.

3.11.2. For service interruptions other those listed in Section 3.12.1 above, Contractor shall credit the City for interruptions to accessing the System whenever such interruptions in service exceed 1 hour at a time and are a result of causes attributable to the Contractor. In the event Contractor is unable to restore access to the System within the 1-hour deadline, then Contractor shall provide the City with a credit equal to 2% of the annual hosting and maintenance fees for each hour beyond the 1-hour deadline the service was interrupted.

3.11.3. In the event that Contractor cannot meet the Guaranteed Response Times set out in Exhibit A, Section 12.5, Contractor shall credit the City with 2% of the annual hosting and maintenance fees for each hour beyond the response times provided in Exhibit A, Section 12.5.

3.11.4. Contractor shall provide the City with credits for interruptions to accessing the System as set out in this section in its annual invoice for application hosting services. Notwithstanding the foregoing, Contractor shall not provide City with credits for interruptions caused by the failure of the common carrier's communications network.

3.12. Confidentiality – Protection of City's Interests.

Contractor, its agents, employees, contractors, and subcontractors shall hold all City information, data, and documents, in whatever form, (collectively, the "Information") that they receive, or to which they have access, in strictest confidence. Contractor, its agents, employees, contractors, and subcontractors shall not disclose, disseminate, or use the Information unless the Director authorizes it in writing. Contractor shall obtain written agreements from its agents, employees, contractors, and subcontractors which bind them to the terms in this Section.

3.13. Use of Work Products – City may use all Documents.

3.13.1. The City may use the Documents that Contractor prepares or obtains under this Agreement.

3.13.2. Contractor warrants that it owns the copyright to the Documents.

3.13.3. Contractor shall deliver a copy of the Documents to the Director on request. Within five working days after this Agreement terminates, Contractor shall deliver to the Director the original Documents, and all other files and materials Contractor produces or gathers during its performance under this Agreement.

3.14. Licenses and Permits.

Contractor shall obtain, maintain, and pay for all licenses, permits, and certificates including all professional licenses required by any statute, ordinance, rule, or regulation. Contractor shall immediately notify the Director of any suspension, revocation, or other detrimental action against his or her license.

3.15. Compliance with Laws.

Contractor shall at all times comply with all applicable state and federal laws and regulations and the City Charter and Code of Ordinances in connection with its performance of all services contemplated under this Agreement.

3.16. Compliance with Equal Opportunity Ordinance.

Contractor shall comply with the City's Equal Employment Opportunity Ordinance as set out in Exhibit C.

3.17. Drug Abuse Detection and Deterrence.

3.17.1. It is the policy of the City to achieve a drug-free workforce and workplace. The manufacture, distribution, dispensation, possession, sale, or use of illegal drugs or alcohol by contractors while on City Premises is prohibited. Contractor shall comply with all the requirements and procedures set forth in the Mayor's Drug Abuse Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31 ("Executive Order"), which is incorporated into this Agreement and is on file in the City Secretary's Office.

3.17.2. Before the City signs this Agreement, Contractor shall file with the Contract Compliance Officer for Drug Testing ("CCODT"):

3.17.2.1. a copy of its drug-free workplace policy,

3.17.2.2. the Drug Policy Compliance Agreement substantially in the form set forth in Exhibit D, together with a written designation of all safety impact positions and,

3.17.2.3. if applicable (e.g. no safety impact positions), the Certification of No Safety Impact Positions, substantially in the form set forth in Exhibit F.

If Contractor files a written designation of safety impact positions with its Drug Policy Compliance Agreement, it also shall file every 6 months during the performance of this Agreement or on completion of this Agreement if performance is less than 6 months, a Drug Policy Compliance Declaration in a form substantially similar to Exhibit E. Contractor shall submit the Drug Policy Compliance Declaration to the CCODT within 30 days of the expiration of each 6-month period of performance and within 30 days of completion of this Agreement. The first 6-month period begins to run on the date the City issues its Notice to Proceed or if no Notice to Proceed is issued, on the first day Contractor begins work under this Agreement.

3.17.3. Contractor also shall file updated designations of safety impact positions with the CCODT if additional safety impact positions are added to Contractor's employee work force.

3.17.4. Contractor shall require that its subcontractors comply with the Executive Order, and Contractor shall secure and maintain the required documents for City inspection.

3.18. Minority and Women Business Enterprise.

Contractor shall comply with the City's Minority and Women Business Enterprise ("MWBE") programs as set out in Chapter 15, Article V of the City of Houston Code of Ordinances. Contractor shall make good faith efforts to award subcontracts or supply agreements in at least 15% of the value of this Agreement to MWBEs. Contractor acknowledges that it has reviewed the requirements for good faith efforts on file with the City's Affirmative Action Division and will comply with them.

Contractor shall require written subcontracts with all MWBE subcontractors and shall submit all disputes with MWBEs to binding arbitration to be conducted in Houston, Texas, if directed to do so by the Affirmative Action Division Director. MWBE subcontracts must contain the terms set out in Exhibit G. If Contractor is an individual person (as distinguished from a corporation, partnership, or other legal entity), and the amount of the subcontract is \$50,000 or less, the subcontract must also be signed by the attorneys of the respective parties.

3.19. Pay or Play Policy.

The requirements and terms of the City of Houston Pay or Play program, as set out in Executive Order 1-7, are incorporated into this Agreement for all purposes. Contractor has reviewed Executive Order No. 1-7 and shall comply with its terms and conditions as they are set out at the time of City Council approval of this Agreement.

3.20. Escrow Agreement.

Contractor agrees to deposit the escrowed materials with the Escrow Agent in accordance with the terms of the Escrow Agreement set forth in Exhibit I.

4. DUTIES OF THE CITY

4.1. Payment Terms.

4.1.1. Basic Services. City shall pay and Contractor shall accept the fees provided in Exhibit B (Fee Payment Schedule) for all services rendered by Contractor. The fees must only be paid from the Allocated Funds, as provided below.

4.1.2. Additional Services. In the event the Director requests Additional Services from the Contractor in writing and subject to the allocation of funds, Contractor shall provide the Additional Services requested. As of the effective date of the Additional Services requested, such Additional Services shall be subject to this Agreement as if it had originally been a part, but fees for such Additional Services shall start to accrue only as of the effective date. During the Term, the amount of Additional Services approved by the Director shall not exceed a total of \$50,000.00.

4.2. Taxes.

The City is exempt from payment of Federal Excise and Transportation Tax and Texas Limited Sales and Use Tax. Contractor's invoices to the City must not contain assessments of any of these taxes. The Director will furnish the City's exemption certificate and federal tax identification number to Contractor if requested.

4.3. Method of Payment.

The City shall pay for Basic Services on the basis of monthly invoices submitted by Contractor and approved by the Director, showing the specific services provided in the preceding month, less credit for interruptions in service due to failure of Contractor's network, if applicable. The City shall pay for Additional Services on the basis of monthly invoices submitted by Contractor and approved by the Director, showing the services provided as Additional Services. The City shall pay Contractor within 30 days of the receipt and approval of the invoices.

4.4. Method of Payment – Disputed Payments.

If the City disputes any items in an invoice Contractor submits for any reason, including lack of supporting documentation, the Director shall temporarily delete the disputed item and pay the remainder of the invoice. The Director shall promptly notify Contractor of the dispute and request remedial action. After the dispute is settled, Contractor shall include the disputed amount on a subsequent regularly scheduled invoice or on a special invoice for the disputed item only.

4.5. Limit of Appropriation.

4.5.1. The City's duty to pay money to Contractor under this Agreement is limited in its entirety by the provisions of this Section.

4.5.2. In order to comply with Article II, Sections 19 and 19a of the City's Charter and Article XI, Section 5 of the Texas Constitution, the City has appropriated and allocated the sum of \$33,000.00 to pay money due under this Agreement (the "Original Allocation"). The executive and legislative officers of the City, in their discretion, may

allocate supplemental funds for this Agreement, but they are not obligated to do so. Therefore, the parties have agreed to the following procedures and remedies:

4.5.3. The City makes a supplemental allocation by sending a notice signed by the CIO and the City Controller to Contractor in substantially the following form:

"NOTICE OF SUPPLEMENTAL ALLOCATION OF FUNDS"

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of notice]
SUBJECT: Supplemental allocation of funds for the purpose of the "[title of this Agreement]" between the City and (name of Contractor countersigned by the City Controller on (Date of Countersignature) (the "Agreement").

I, (name of City Controller), City Controller of the City of Houston, certify that the supplemental sum of \$_____, upon the request of the Director, has been allocated for the purposes of the Agreement out of funds appropriated for this purpose by the City Council of the City of Houston. This supplemental allocation has been charged to such appropriation.

The aggregate of all sums allocated for the purpose of such Contract, including the Original Allocation, and all supplemental allocations (including this one), as of the date of this notice, is \$_____.

SIGNED:

(Signature of the City Controller) City Controller of the City

REQUESTED:

(Signature of the Director) Director, Public Works and Engineering Department

4.5.4. The Original Allocation plus all supplemental allocations are the Allocated Funds. The City shall never be obligated to pay any money under this Agreement in excess of the Allocated Funds. Contractor must assure itself that sufficient allocations have been made to pay for services it provides. If Allocated Funds are exhausted, Contractor's only remedy is suspension or termination of its performance under this Agreement, and it has no other remedy in law or in equity against the City and no right to damages of any kind.

4.6. Changes.

4.6.1. At any time during the Term or Renewals, the Director may issue a Change Order to increase or decrease the scope of services or change plans and specifications, as he or she may find necessary to accomplish the general purposes of this Agreement.

Contractor shall furnish the services or deliverables in the Change Order in accordance with the requirements of this Agreement plus any special provisions, specifications, or special instructions issued to execute the extra work.

4.6.2. The Director will issue the Change Order in substantially the following form:

CHANGE ORDER

TO: [Name of Contractor]
FROM: City of Houston, Texas (the "City")
DATE: [Date of Notice]
SUBJECT: Change Order under the Agreement between the City and [Name of Contractor] countersigned by the City Controller on [Date of countersignature of the Agreement]

Subject to all terms and conditions of the Agreement, the City requests that Contractor provide the following:

[Here describe the additions to or changes to the equipment or services and the Change Order Charges applicable to each.]

Signed:

[Signature of Director]

4.6.3. The Director may issue more than one Change Order, subject to the following limitations:

- (a) Council expressly authorizes the Director to approve a Change Orders up to \$50,000. A Change Order of more than \$50,000 must be approved by the City Council.
- (b) If a Change Order describes items that Contractor is otherwise required to provide under this Agreement, the City is not obligated to pay any additional money to Contractor.
- (c) The Total of all Change Orders issued under this section may not increase the Original Agreement amount by more than 25%.

4.6.4. Whenever Contractor receives a Change Order, Contractor shall furnish all material, equipment, and personnel necessary to perform the work described in the Change Order. Contractor shall complete the work within the time prescribed. If no time for completion is prescribed, Contractor shall complete the work within a reasonable time. If the work described in any Change Order causes an unavoidable delay in any other work Contractor is required to perform under this Agreement, Contractor may request a time extension for the completion of the work. The Director's decision regarding a time extension is final.

4.6.5. A product or service provided under a Change Order is subject to inspection, acceptance, or rejection in the same manner as the work described in the Original Agreement, and is subject to the terms and conditions of the Original Agreement as if it had originally been a part of the Agreement.

4.6.6. Change Orders are subject to the Allocated Funds provisions of this Agreement.

4.7. Customer Data.

4.7.1. Contractor acknowledges the City will own all right, title and interest in and to any data Contractor may collect from the City or the City's patrons and customers or that is provided to Contractor by City or City's patrons and customers in connection with their respective use of the services ("Customer Data"). The City grants to Contractor a non-exclusive, royalty-free license to use the Customer Data during the Term to (i) provide services to the City and/or to the City's patrons and customers; and (ii) as necessary to monitor and improve the services.

4.7.2. Contractor disclaims ownership of any and all Customer Data.

4.7.3. Contractor agrees to store and process Customer Data only in the continental United States.

4.7.4. Contractor shall establish and maintain reasonable safeguards against the destruction, loss, alteration of, or unauthorized access to Customer Data stored on Contractor's systems.

4.7.5. Contractor agrees to immediately notify City of any breach of security known to Contractor that may affect Customer Data.

4.7.6. Upon request by City at any time during the Term and upon expiration or termination of this Agreement, Contractor shall (a) promptly provide to City, in the format and on the media reasonably requested by City, all or any part of the Customer Data in Contractor's possession.

5. TERM AND TERMINATION

5.1. Contract Term.

This Agreement is effective on the Effective Date and remains in effect for three (3) years unless sooner terminated under this Agreement (the "Initial Term").

5.2. Renewals.

Upon expiration of the Initial Term, and so long as the City makes sufficient supplemental allocations, this Agreement will be automatically renewed for two (2) successive one-year terms on the same terms and conditions (each a "Renewal Term" and together with the Initial Term, the "Term"). If the Director or the City chooses not to renew this Agreement, the City Purchasing Agent shall notify Contractor of non-renewal at least 30 days before the expiration of the then-current term.

5.3. Termination for Convenience by City.

The City Purchasing Agent may terminate this Agreement at any time by giving 30 days written notice to Contractor. The City's right to terminate this Agreement for convenience is cumulative of all rights and remedies which exist now or in the future.

On receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement and cancel all existing orders and subcontracts that are chargeable to this Agreement. As soon as practicable after receiving the termination notice, Contractor shall submit an invoice showing in detail the services performed under this Agreement up to the termination date. The City shall then pay the fees to Contractor for services actually performed, but not already paid for, in the same manner as prescribed in Section 4.1.1, unless the fees exceed the allocated funds remaining under this Agreement. Contractor shall refund pro rata any advance fees paid for the period remaining after the termination of this Agreement.

TERMINATION OF THIS AGREEMENT AND RECEIPT OF PAYMENT FOR SERVICES RENDERED ARE CONTRACTOR'S ONLY REMEDIES FOR THE CITY'S TERMINATION FOR CONVENIENCE, WHICH DOES NOT CONSTITUTE A DEFAULT OR BREACH OF THIS AGREEMENT. CONTRACTOR WAIVES ANY CLAIM (OTHER THAN ITS CLAIM FOR PAYMENT SPECIFIED IN THIS SECTION), IT MAY HAVE NOW OR IN THE FUTURE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE CITY'S TERMINATION FOR CONVENIENCE.

5.4. Termination for Cause by City.

If Contractor defaults under this Agreement, the Director may either terminate this Agreement or allow Contractor to cure the default as provided below. The City's right to terminate this Agreement for Contractor's default is cumulative of all rights and remedies which exist now or in the future. Default by Contractor occurs if:

5.4.1 Contractor fails to perform any of its material duties under this Agreement;

5.4.2 A Fundamental Change occurs within Contractor's business. Fundamental Change means:

- a) Contractor becomes insolvent;
- b) All or a substantial part of Contractor's assets are assigned for the benefit of its creditors;
- c) A receiver or trustee is appointed for Contractor.

If a default under 5.4.1 occurs, the Director shall deliver a written notice to Contractor describing the default and providing a 60 day notice to cure. If a default under 5.4.2 occurs, the Director shall deliver a written notice of termination and the termination date shall be at least 30 days after the date of the written notice. The Director, at his or her sole option, may extend the termination date to a later date. The Director shall allow Contractor to cure the default and if Contractor does so to the Director's satisfaction before the termination date, then the termination is ineffective. If Contractor does not cure the default before the termination date, then the Director may terminate this Agreement on the termination date, at

no further obligation of the City. Contractor shall refund pro rata advance fees paid for the period remaining after the termination of this Agreement.

To effect final termination, the Director must notify Contractor in writing. After receiving the notice, Contractor shall, unless the notice directs otherwise, immediately discontinue all services under this Agreement, and promptly cancel all orders or subcontracts chargeable to this Agreement.

5.4.3 In the event of the occurrence of a Fundamental Change, Contractor or their appointed receiver or trustee shall release a copy of the escrowed materials in accordance with the terms of Exhibit H (Escrow Agreement).

5.5. Effects of Termination

Upon expiration or termination of this Agreement, Contractor shall (i) promptly return to City, in format and on the media reasonably requested by City, all or any part of the Customer Data in Contractor's possession at no charge; and (ii) after a commercially reasonable period of time, Contractor shall erase or destroy all or any part of the Customer Data in Contractor's possession.

6. MISCELLANEOUS

6.1. Independent Contractor.

Contractor is an independent contractor and shall perform the services provided for in this Agreement in that capacity. The City has no control or supervisory powers over the manner or method of Contractor's performance under this Agreement. All personnel Contractor uses or provides are its employees or subcontractors and not the City's employees, agents, or subcontractors for any purpose whatsoever. Contractor is solely responsible for the compensation of its personnel, including but not limited to: the withholding of income, social security, and other payroll taxes and all workers' compensation benefits coverage.

6.2. Force Majeure.

6.2.1. Timely performance by both parties is essential to this Agreement. However, neither party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure that directly impacts the City or Contractor. The event of Force Majeure may permit a reasonable delay in performance but does not excuse a party's obligations to complete performance under this Agreement. Force Majeure means: fires, interruption of utility services, epidemics in the City, floods, hurricanes, tornadoes, ice storms and other natural disasters, explosions, war, terrorist acts against the City or Contractor, riots, strikes, court orders, and the acts of superior governmental or military authority, and which the affected party is unable to prevent by the exercise of reasonable diligence. The term does not include any changes in general economic conditions such as inflation, interest rates, economic downturn or other factors of general application; or an event that merely makes performance more difficult, expensive or impractical. Force Majeure does not entitle Contractor to extra Reimbursable Expenses or payment.

6.2.2. This relief is not applicable unless the affected party does the following:

6.2.2.1. uses due diligence to remove the effects of the Force Majeure as quickly as possible and to continue performance notwithstanding the Force Majeure; and

6.2.2.2. provides the other party with prompt written notice of the cause and its anticipated effect.

6.2.3. The City Purchasing Agent will review claims that a Force Majeure that directly impacts the City or Contractor has occurred and render a written decision within 14 days. The decision of the City Purchasing Agent is final.

6.2.4. The City may perform contract functions itself or contract them out during periods of Force Majeure. Such performance is not a default or breach of this Agreement by the City.

6.2.5. If the Force Majeure continues for more than 10 days from the date performance is affected, the City Purchasing Agent may terminate this Agreement by giving 7 days' written notice to Contractor. This termination is not a default or breach of this Agreement.

CONTRACTOR WAIVES ANY CLAIM IT MAY HAVE FOR FINANCIAL LOSSES OR OTHER DAMAGES RESULTING FROM THE TERMINATION EXCEPT FOR AMOUNTS DUE UNDER THE AGREEMENT UP TO THE TIME THE WORK IS HALTED DUE TO FORCE MAJEURE.

6.3. Severability.

If any part of this Agreement is for any reason found to be unenforceable, all other parts remain enforceable unless the result materially prejudices either party.

6.4. Entire Agreement.

This Agreement merges the prior negotiations and understandings of the Parties and embodies the entire agreement of the Parties. No other agreements, assurances, conditions, covenants (express or implied), or other terms of any kind, exist between the Parties regarding this Agreement.

6.5. Written Amendment.

Unless otherwise specified elsewhere in this Agreement, this Agreement may be amended only by written instrument executed on behalf of the City (by authority of an ordinance adopted by the City Council) and Contractor. The City Purchasing Agent and Director is only authorized to perform the functions specifically delegated to him or her in this Agreement.

6.6. Applicable Laws.

This Agreement is subject to the laws of the State of Texas, the City Charter and Ordinances, the laws of the federal government of the United States, and all rules and

regulations of any regulatory body or officer having jurisdiction. Venue for any litigation relating to this Agreement is Harris County, Texas.

6.7. Notices.

All notices required or permitted by this Agreement must be in writing and are deemed delivered on the earlier of the date actually received or the third day following: (1) deposit in a United States Postal Service post office or receptacle; (2) with proper postage (certified mail, return receipt requested); and (3) addressed to the other party at the address set out in the preamble of this Agreement or at such other address as the receiving party designates by proper notice to the sending party

6.8. Captions.

Captions contained in this Agreement are for reference only, and, therefore, have no effect in construing this Agreement. The captions are not restrictive of the subject matter of any section in this Agreement.

6.9. Non-Waiver.

If either party fails to require the other to perform a term of this Agreement, that failure does not prevent the party from later enforcing that term and all other terms. If either party waives the other's breach of a term, that waiver does not waive a later breach of this Agreement.

An approval by the City Purchasing Agent, Director, or by any other employee or agent of the City, of any part of Contractor's performance does not waive compliance with this Agreement or establish a standard of performance other than that required by this Agreement and by law. The City Purchasing Agent and the Director are not authorized to vary the terms of this Agreement.

6.10. Inspections and Audits.

City representatives may perform, or have performed, (1) audits of Contractor's books and records, and (2) inspections of all places where work is undertaken in connection with this Agreement. Contractor shall keep its books and records available for this purpose for at least four (4) years after this Agreement terminates. This provision does not affect the applicable statute of limitations.

6.11. Enforcement.

The City Attorney or his or her designee may enforce all legal rights and obligations under this Agreement without further authorization. Contractor shall provide to the City Attorney all documents and records that the City Attorney requests to assist in determining Contractor's compliance with this Agreement, with the exception of those documents made confidential by federal or State law or regulation.

6.12. Ambiguities.

If any term of this Agreement is ambiguous, it shall not be construed for or against any party on the basis that the party did or did not write it.

6.13. Survival.

Contractor shall remain obligated to the City under all clauses of this Agreement that expressly or by their nature extend beyond the expiration or termination of this Agreement, including but not limited to, the indemnity provisions.

6.14. Publicity.

Contractor shall make no announcement or release of information concerning this Agreement unless the release has been submitted to and approved, in writing, by the Director.

6.15. Parties In Interest.

This Agreement does not bestow any rights upon any third party, but binds and benefits the City and Contractor only.

6.16. Successors and Assigns.

This Agreement binds and benefits the Parties and their legal successors and permitted assigns; however, this provision does not alter the restrictions on assignment and disposal of assets set out in the following paragraph. This Agreement does not create any personal liability on the part of any officer or agent of the City.

6.17. Business Structure and Assignments.

Contractor shall not assign this Agreement at law or otherwise or dispose of all or substantially all of its assets without the City Purchasing Agent's prior written consent. Nothing in this clause, however, prevents the assignment of accounts receivable or the creation of a security interest as described in §9.406 of the Texas Business & Commerce Code. In the case of such an assignment, Contractor shall immediately furnish the City with proof of the assignment and the name, telephone number, and address of the Assignee and a clear identification of the fees to be paid to the Assignee. Contractor shall not delegate any portion of its performance under this Agreement without the City Purchasing Agent's prior written consent.

6.18. Remedies Cumulative.

Unless otherwise specified elsewhere in this Agreement, the rights and remedies contained in this Agreement are not exclusive, but are cumulative of all rights and remedies which exist now or in the future. Neither party may terminate its duties under this Agreement except in accordance with its provisions.

6.19. Contractor Debt.

IF CONTRACTOR, AT ANY TIME DURING THE TERM OF THIS AGREEMENT, INCURS A DEBT, AS THE WORD IS DEFINED IN SECTION 15-122 OF THE HOUSTON CITY CODE OF ORDINANCES, IT SHALL IMMEDIATELY NOTIFY THE CITY CONTROLLER IN WRITING. IF THE CITY CONTROLLER BECOMES AWARE THAT CONTRACTOR HAS INCURRED A DEBT, SHE SHALL IMMEDIATELY NOTIFY CONTRACTOR IN WRITING. IF CONTRACTOR DOES NOT PAY THE DEBT WITHIN 30 DAYS OF EITHER SUCH

NOTIFICATION, THE CITY CONTROLLER MAY DEDUCT FUNDS IN AN AMOUNT EQUAL TO THE DEBT FROM ANY PAYMENTS OWED TO CONTRACTOR UNDER THIS AGREEMENT, AND CONTRACTOR WAIVES ANY RECOURSE THEREFOR. CONTRACTOR SHALL FILE A NEW AFFIDAVIT OF OWNERSHIP, USING THE FORM DESIGNATED BY CITY, BETWEEN FEBRUARY 1 AND MARCH 1 OF EVERY YEAR DURING THE TERM OF THIS AGREEMENT.

EXHIBIT A

SCOPE OF SERVICES

1. INTRODUCTION

- 1.1. The Contractor will maintain a hosted License and Permits System for Licensing, investigations, permit processing, and fee collection activities.
- 1.2. The Commercial Permitting and Enforcement Section of the Administration & Regulatory Affairs Department ("CPE") is charged with the responsibility to investigate, issue, and renew over 50 types of commercial permits, including occupational permits and other miscellaneous permits, and site approval for facilities that serve alcohol.
- 1.3. The Transportation Section of Administration & Regulatory Affairs Department (TRN) is charged with the responsibility to issue, renew and investigate vehicle for hire permits for taxicabs, limousines, jitneys, pedicabs, scheduled ground transportation, low speed shuttles and school buses (15 passengers or less).
- 1.4. Houston Police Department (HPD) is charged with the responsibility to render Traffic Accident Reports (TAR). These reports need to be available to the public via a public portal.
- 1.5. The solution must include a site investigation module to enable City investigators to initiate and record all events and activities related to site inspections as required by State statutes and City ordinances. An approved site investigation record is required to issue or renew specific permits while other permit types require no inspection but may require various City departmental approvals.
- 1.6. Note: The Public Works & Engineering Department (PWE) is responsible for enforcing building code ordinances. PWE is not participating in this Agreement, and PWE's permitting and inspection operations will NOT use the solution. Permits and inspections administered by other City departments will also be EXCLUDED this solution.

2. SCOPE OF WORK

- 2.1. This scope of work outlines the services, equipment, software, and tools the City expects the Contractor to provide during the term of this Agreement.
- 2.2. At a high-level, the basic business process requires interaction between an applicant and up to three inter-related components - a main permitting system, a public facing web site, and a back-office payment system.
- 2.3. The permit applicant may request a permit by:
 - 2.3.1. Submitting an application to a City employee in person;
 - 2.3.2. Completing an application over the Internet; and
 - 2.3.3. Submitting an application via mail.
- 2.4. In any case, the permit application will be entered into the permitting system for subsequent processing. Certain permit types will require an "inspection". In this context, "inspection" means to determine and verify that the business site/vehicle is compliant with City codes.

- 2.5. Once a CPE permit has been approved for issue:
 - 2.5.1. All permit charges will be determined;
 - 2.5.2. Requester will be notified (by e-mail, fax or call, or in person if the applicant applies in person);
 - 2.5.3. Requester will pay the permit fee (along with any required convenience or processing fees)
 - 2.5.4. Requester will receive a permit document (receipt) detailing the:
 - 2.5.4.1. Permit type/description;
 - 2.5.4.2. Name of business/site;
 - 2.5.4.3. Expiration date;
 - 2.5.4.4. Permit specific information as required; and
 - 2.5.4.5. Fees to be paid.
- 2.6. City enforcement officials will have access to the Requester's hard copy and on-line permit data to verify that permits are valid.
- 2.7. For credit card payments, payment services will not be provided by the City. The City will contract with a third-party payment service provider to handle all credit card processing services. The Contractor may include these services in their Contract, or may contract with a firm specializing in these services. Regardless, the City will require that the final solution be PCI-compliant.

3. REQUIREMENTS OVERVIEW

- 3.1. Contractor agrees that the System shall continue to satisfy the following City requirements as set out in this Section 4 through Section 7 below.
- 3.2. **Commercial Permitting Licensing & Permitting Components.** The System shall:
 - 3.2.1. Meet permitting requirements as defined by City Ordinances;
 - 3.2.2. Meet permit document requirements as defined by City Ordinances and/or CPE;
 - 3.2.3. Support a multitude of permit types, fees, and renewal fees as defined by Ordinances;
 - 3.2.4. Include fees for all prior years due for the subject permit if identified in the investigation;
 - 3.2.5. Identify permit types that can be issued automatically (without review & approval);
 - 3.2.6. Record information unique to specific permit types (surety bond, driver's license number);
 - 3.2.7. Identify permit types that require departmental approval prior to issue;
 - 3.2.8. Provide for departmental approval for permits and routes for specific permit types;
 - 3.2.9. Issue decals in multiple (sequential) pre-assigned (pre-printed) serial numbers:
 - 3.2.9.1. Track decals by decal serial number and customer taxpayer ID;
 - 3.2.9.2. Retain an inventory of sites related to decal issues and the number of decals at each site.
 - 3.2.10. Generate mail-able renewal notices for expiring accounts:
 - 3.2.10.1. Provide unique document language depending on permit type (permit groups);
 - 3.2.10.2. Create site investigation work orders for expiring accounts;
 - 3.2.10.3. Assign site investigations to responsible investigator by zip code; and
 - 3.2.10.4. Link site investigation work orders to the expiring account subject to the renewal.

- 3.2.11. Generate mail-able notices for approved alcohol permits requests when 1st issue date is due.
- 3.2.12. Generate renewal delinquency notices thirty (30) days after expiration without renewal.

3.3. Investigation Components. The System shall:

- 3.3.1. Support a site investigation module;
- 3.3.2. Issue/ renew permits based on approved investigations;
- 3.3.3. Support a City investigator profile table;
- 3.3.4. Automatically assign inspectors based on a reasonable methodology; and
- 3.3.5. Include multiple permit types with the investigation record that may be approved or disapproved individually.

3.4. Public Facing Components.

- 3.4.1. Create a 24/7 web-based system for permitting;
- 3.4.2. Provide applicant electronic notification for permits subject to departmental approvals; and
- 3.4.3. Provide applicant electronic notification for approved/ disapproved permits and the reasons for rejection or revocation if applicable.

3.6 Data Components:

- 3.6.1 Provide comprehensive database inquiry functionality;
- 3.6.2 Exchange data/information between City departments;
- 3.6.3 Include a parent/child connection between records:
 - 3.6.3.1 Permits and the site investigation record where applicable
 - 3.6.3.2 Expiring permits and the renewed permit record
- 3.6.4 Print/re-print paid permits on demand;
- 3.6.5 Print/re-print City Secretary documents on demand; and
- 3.6.6 Support an archive of permit applications and expired permits, investigation records, and related events and activities.

3.7 Accounting Components:

- 3.7.1 Accept and process electronic and cash payments;
- 3.7.3 Provide electronic notification and delivery of permits to customers; and
- 3.7.4 Provide financial reporting for permit activity, statistics, and collection accountability.

3.8 Other Requirements:

- 3.8.1 Include a system security module to provide internal security access and external security assurance;
- 3.8.2 Response time for City employees entering data into the system must be less than three (3) seconds; and
- 3.8.3 The system must be available 99.9% of the time. On average, scheduled outages must not exceed two (2) hours per day, and all scheduled outages must be scheduled for off-hours.

3.9 Additional functions and features from the Contractor include:

- 3.9.1 A license bureau registration module;

- 3.9.2 A customer registration module; and
 - 3.9.3 Providing investigators with remote access from field operations for record maintenance.
- 3.10 The Solution should allow customers, permit technicians, and management to track the progress of applications and permits, and to manage “in progress” work prior to a permit being issued.
- 3.11 It should allow for multiple edits during the investigation process based on various factors, including multiple permit types at the same business with independent permit approval or disapproval, right to issue due to exceptions as defined by ordinance and the supporting ordinance number, motion number, and motion date when applicable.
- 3.12 Payment components must connect with or provide an interface with a third-party vendor in order to process all financial credit card transactions.
- 3.13 In addition, the solution should provide the ability to track financial data (excluding credit card information) and include the ability to reconcile data.
- 3.14 Collection totals should be available on demand for any specified period.
- 3.15 The System shall provide the City the ability to easily modify the business rules and have the revisions and enhancements reflected in the solution.
- 3.16 Wherever possible, the application should enable business owners to “administer” their own system. On occasion, the City’s technical support staff will need to conduct maintenance, updates, and enhancements to include:
- 3.16.1 Investigator zip code assignments;
 - 3.16.2 Creating new permit types;
 - 3.16.3 Updating permit fees and/or renewal fees;
 - 3.16.4 Employee access;
 - 3.16.5 Supplementing permit applications with notations/comments; and
 - 3.16.6 Notations should also be displayed on the permit document when applicable.
- 3.17 Requirements for Transportation
- 3.17.1 The Application detail functionality will capture the primary information required for the processing of the permits. The details include but are not limited to: title, description, address, individual attributes.
 - 3.17.2 Specific attributes will be collected that are related to the applicant.
 - 3.17.3 Attributes on individuals shall be maintained as historical data. No attribute shall be overwritten.
- 3.18 Fee Generation and Management
- 3.18.1 The module will use GovPartner’s flexible fee-engine functionality including:
 - 3.18.1.1 Fee list – Summary of groups of fees

- 3.18.1.2 Fee worksheet – Individual fee line management
- 3.18.1.3 Fee Payment – ability to notate payment and generate a receipt
- 3.18.1.4 Fee Groups – ability to create groups of fee types
- 3.18.1.5 Fee Types – Individual fees
- 3.18.1.6 Account Reference Group – Relationship between fee types and general ledger accounts

3.18.2 Ability of business administrator to modify and create new fees as needed without administer assistance unless requested.

3.19 Inspection Management

3.19.1 The module will use GovPartner’s Inspection Schedule and Inspection tasks functionality including:

- 3.19.1.1. Inspection Schedule – the ability to manage multiple schedules association to an Individual permit or license
- 3.19.1.2. Schedule Detail – the ability to manage a specific inspection schedule request
- 3.19.1.3. Inspection Detail – the ability to manage multiple inspection results from a specific site visit or contact
- 3.19.1.4. Inspection Task – individual results of a particular task of an inspection
- 3.19.1.5. Ability to attach an inspection template at time of permit template should inspection be required

3.20 Permit Management Functionality

3.20.1 The module will use GovPartner’s Permit Management functionality including:

- 3.20.1.1. Permit Detail – Summary of permits associated to an application and the ability to edit specific attributes of a permit or license such as Issue Date and Permit Status
- 3.20.1.2. Permit Groups – A collection of permit (types)
- 3.20.1.3. Permits (type)
- 3.20.1.4. Individual type of permit or license with specific format and associations
- 3.20.1.5. Permit Templates – Template or predetermined workflow based on a specific permit type
- 3.20.1.6. Ability to move a paid permit from one vehicle to another should the vehicle be dropped from service for whatever reason. This would be allowed only before the vehicle is marked out of service.
- 3.20.1.7. Ability to lock adding or amending permits to vehicles (child) should the vehicle (child) be marked out of service.

3.21 Document Review Functionality

3.21.1 The module will use GovPartner’s Permit Management functionality. The functionality provide staff the ability to share and notate comments and positive or negative consideration of documents.

- 3.21.1.1. Document List – Summary of review documents per application
- 3.21.1.2. Document Detail – Individual document detail and assignments
- 3.21.1.3. Document Check Detail – Ability to manage multiple document comments from a specific reviewer
- 3.21.1.4. Document comment – Individual comment (s) from a specific reviewer

- 3.21.1.5. Document Groups – A collection of document (types)
 - 3.21.1.6. Documents (type) – Individual type of document
 - 3.21.1.7. Ability to attach various documents to the project in the database with distinguishing types
- 3.22 Child Detail Functionality
- 3.22.1 The module needs to manage a parent/child relationship between a parent (company License and child (vehicle) functionality.
 - 3.22.2 The child detail functionality will capture the primary information required for processing Licenses.
- 3.23 Hearing Functionality
- 3.23.1 The module will use GovPartner's hearing's functionality and associate permit/license applications to upcoming hearings.
- 3.24 Appeals Functionality
- 3.24.1 The module will need GovPartner's appeals functionality. The appeal functionality provides the ability to associate a licensed driver with their unique license history to the parent company.
- 3.25 Parent to Parent Association
- 3.25.1 Each license can be associated to a Master license. This functionality will provide the ability to associate a licensed driver with their unique license history to the parent company.
- 3.26 Vehicle Association to Payment
- 3.26.1 An entity table will provide the ability to associate a specific vehicle to a specific installment payment.
- 3.27 Medallion Association
- 3.27.1 An entity (table) and associated interface functionality will provide the ability to associate a transportation "license" to a collection of Medallions and each medallion can be associated to a specific vehicle. The function includes the ability to transfer a medallion from one vehicle to another.
- 3.28 Driver's license Image Association
- 3.28.1 An entity and associated interface functionality will provide the ability to upload and associate a digital image to a specific license (permit). This associated image will be called through a Microsoft SQL Report to be printed as part of the generated license. The interface will pre-select the most recent associated image to the license.
 - 3.28.2 Ability for system to encode a magnetic stripe on the ID for swipes at other facilities to be able to pull basic information: Name, ID Number, License Expiration Date, License Type, must be done utilizing the current ID printer on site.
- 3.29 Reporting Requirements
- 3.29.1 Ability to have global reports that can be manipulated to present needed

- information for various industries regulated at both the Transportation (Parent) and Vehicle (Child) levels.
- 3.29.2 Ability to have set Microsoft SQL Query templates that can be manipulated to allow for various data pulls.
- 3.29.3 There is also the need to be able to cross both Parent and Child levels with global reports and with query templates.
 - 3.29.3.1 Ability to gather and maintain historical information.
 - 3.29.3.2 Ability to have regulatory documents run as reports that are associated to particular vehicles and companies.
 - 3.29.3.3 Ability of fee estimate reports to print at the parent level for all the vehicles receiving permits at that point in time. A fee roll-up allowing one barcode to be printed on the report for all permits. Fee estimate report should detail the price per permit and quantity of permits purchased.
 - 3.29.3.4 Ability to assist with additional queries as needed.
- 3.30 Integration with INovah point of sale cashiering system at the Houston Permitting Center
 - 3.30.1 A business unit will utilize systems to meet (GovPartner/CDP, iNovah, and/or OM Plus) to meet permitting, revenue identification, as well as printing and distribution of related documents. The business unit details contained pertain to ARA Commercial Permitting and ARA Transportation.
 - 3.30.2 The CDP end user shall be able to identify specific permits within a business license to include within a payment transactions.
 - 3.30.3 There shall be a one-to-one relationship between CDP Permit and iNovah Payment Type within an iNovah payment transaction.
 - 3.30.4 Tenders accepted for permits associated with Sexually Oriented Businesses (SOB) must be restricted to Cash (Bills & Coins), Cashier's Check, and Money Order.
 - 3.30.5 A payment transaction must be based upon information from the POS Invoice. This is accomplished through a unique identifier in the POS Invoice. A printed invoice must meet the following requirements:
 - 3.30.5.1 POS Invoice includes a two part unique identifier
 - 3.30.5.2 The unique identifier coded as a linear barcode coded using the Code 39 format
 - 3.30.5.3 POS Invoice may contain detailed information about the account for improved customer experience
 - 3.30.6 The CDP permit shall print at the cashier station upon processing of the Submit Payment Information Service. There are 14 permits that are not to print automatically by CDP, rather the printing is initiated by the end user and will not interface with OM Plus application. The 14 permits are:
 - 3.30.6.1. Certification (alcohol)
 - 3.30.6.2. Coin Vending
 - 3.30.6.3. Charitable Solicitation 30 Day
 - 3.30.6.4. Sexually Oriented Business – Adult Arcades
 - 3.30.6.5. Sexually Oriented Business – Business
 - 3.30.6.6. Sexually Oriented Business – Entertainer
 - 3.30.6.7. Sexually Oriented Business – Manager (Combined with Entertainer)
 - 3.30.6.8. Limousine Inspection and Permits
 - 3.30.6.9. School (Private) License and Permits
 - 3.30.6.10. Charter Bus Permits

- 3.30.6.11. Jitney Inspection and Permits
- 3.30.6.12. Low Speed Shuttle Inspection and Permits
- 3.30.6.13. Pedicab Inspection and Permits
- 3.30.6.14. Taxicab License and Permits

3.31 Reporting Requirements

Line of business systems (Financial and Transactional) reports should display the iNovah POS Receipt Number. The iNovah Receipt number will be used to perform finance reconciliation of transactions between CDP and iNovah. CDP will remain the system of record for all financial information associated with CDP-based transaction; including General Ledger information.

3.32 CDP Interface Configurations

iNovah will communicate with CDP using the Web Services. Altogether, there are four services which will permit lookups, inquiries and updates.

3.33 HPD Traffic Report Portal (TAR)

3.33.1 Individual constituent TAR Search Functionality

3.33.2 **Summary:** Constituents will login to the Portal and be able to create a search for TAR with the following criteria, of which 2 of the first 3 criteria are sufficient when case number is not provided. Name of Driver, Date of Crash, Location of Crash, Case Number, Driver's License Number

3.33.3 Constituents should have the ability before purchase to update his/her shopping cart by adding or emptying items

3.34 Insurance/Commercial TAR Search Functionality

3.34.1 **Summary:** Constituents representing insurance/commercial companies will login to the Portal and be able to create a search for TAR with the following criteria, of which any 2 of the first 3 criteria are sufficient when case number is not provided.

- 3.34.1.1. Name of Driver
- 3.34.1.2. Date of Crash
- 3.34.1.3. Location of Crash
- 3.34.1.4. Case Number
- 3.34.1.5. Driver's License Number

3.34.2 **Summary:** Constituents should have ability to update his/her shopping cart by adding or emptying items.

3.35 Internal HPD User TAR Search Functionality

3.35.1 **Summary:** Internal HPD users will login to the Portal and be able to create a search for a TAR with the following criteria as well as have the ability for wild card searches of which any 2 of the first 3 criteria are sufficient when case numbers is not provided.

- 3.35.1.1. Name of Driver
- 3.35.1.2. Date of Crash
- 3.35.1.3. Location of Crash

- 3.35.1.4. Case Number
- 3.35.1.5. Driver's License Number
- 3.35.2 **Summary:** Constituents should have ability before purchase to update his/her Shopping cart by adding or emptying items.
- 3.36 Individual constituent TAR Payment Functionality
 - 3.36.1 **Summary:** Having obtained a valid and desired search result, the constituent will select the desired TAR and submit the selection to their shopping car for payment. Fees will be \$6.00 per TAR but administrative functionality will provide access to edit the fee if required in the future.
 - 3.36.2 **Summary:** Constituents should have the ability to empty their shopping cart of the Items that they purchase to avoid duplicate charge when constituents accidentally repurchase the items not removed from their previous shopping cart.
- 3.37 Insurance commercial TAR Payment Functionality
 - 3.37.1 **Summary:** Constituents should have the ability to empty their shopping cart of the Items that they purchase to avoid duplicate charge when constituents accidentally repurchase items not removed from their previous shopping cart.
- 3.38 Internal HPD User TAR Non-Charge Functionality
 - 3.38.1 **Summary:** Internal HPD having obtained a valid and desired search result will select the desired TAR and submit the selection for printing without payment required.
- 3.39 Individual constituent TAR Printing Functionality
 - 3.39.1 **Summary:** Having successfully submitted payment, the constituent will download the desired TAR for local printing. The TAR will be available for 30 days for download and then subsequently access would be denied.
 - 3.39.2 **Summary:** Constitutes should have ability to print multiple reports or a single report by implementing a print option selection and implementing functionality for user to have exporting capability to choose between using the XPS or PDF file format.
- 3.40 Insurance/Commercial TAR Printing Functionality
 - 3.40.1 **Summary:** Having successfully submitted payment, the user will download the desired TAR for local printing. The TAR will be available for 30 days for download and then subsequently access would be denied.
- 3.41 Internal HPD Non-Charge Functionality
 - 3.41.1 **Summary:** Internal HPD having obtained a valid and desired search result will select the desired TAR and submit the selection for printing without payment required. The user will download the desired TAR for local printing.
- 3.42 Reporting Requirements
 - 3.42.1 Wild Card Search Activity Report – A monthly report of all users who have searched using Wild Cards.

- 3.42.2 Constituent Activity Report – A monthly report of all constituents who purchased TAR's with the User ID, Date, Time and fees paid.
- 3.42.3 Constituent Categorization Report – A monthly report that categorizes Individual versus Commercial constituents.

3.43 Auditing

- 3.43.1 **Summary:** GovPartner will provide an administrative tool for the City of Houston to turn on auditing of any of the entities in the GovPartner database schema deployed for the City of Houston. Auditing functionality shall include:
 - 3.43.1.1. Date Last Updated, Updated By, Entity Updated, Entity Primary Key
 - 3.43.1.2. Date Last Updated, Updated By, Entity Updated, Entity Primary Key, Entity after Update
 - 3.43.1.3. Date Last Updated, Updated By, Entity Updated, Entity Primary Key, Entity after Update, Entity before Update

3.44 Notifications

- 3.44.1 **Summary:** GovPartner will provide the Director with incident reports of attempted violation of the security system built into the system.

3.45 Data Warehouse Feeds

- 3.45.1 **Summary:** GovPartner will make available to the city copies of the SQL DB that can be deployed with a city's warehouse. This availability will provide the city with the resources to construct specific queries and Microsoft SQL Reports that can be deployed locally against their data warehouse and/or be deployed to the production environment as a standard report available through the application.

3.46 Constituent Account/Profile Self-Update

- 3.46.1 **Summary:** Constituents should have the ability to update their Account/Profile Information.

3.47 Retrieval of Passwords

- 3.47.1 **Summary:** Constituents should have ability to retrieve their forgotten user names and/or passwords.

4.0 SERVICES, EQUIPMENT, SOFTWARE, AND TOOLS:

The primary work locations should be in facilities provided by the City of Houston, Houston, Texas. All training, integration, and acceptance testing should occur at the primary work locations or at facilities provided by the City. Support personnel capable of troubleshooting issues and taking action to resolve those issues should be available throughout the project.

4.1 Staging:

- 4.1.1 The City's primary objective is to enable Requesters to apply for permits, City staff to verify the application, and Requesters to pay for and receive a hard-copy permit.
- 4.1.2 The solution must include the ability to conduct all of the permitting processes over the Internet, and to take on-line payments.

4.2 Configuration and Customization:

- 4.2.1 The Contractor is responsible for configuring and implementing all components internal to the proposed solution and for developing logic (internal to its solution) that may be required to comply with the provisions of the City Ordinance.
- 4.2.2 The solution must provide for customizable reporting on business information within the application. This includes but is not limited to:
 - 4.2.2.1 Applications/Permits;
 - 4.2.2.2 Name of business;
 - 4.2.2.3 Site of business;
 - 4.2.2.4 Decal issues; and
 - 4.2.2.5 Collections.

4.3 Interfaces

4.3.1 SAP Financials

4.3.1.1 The City uses SAP software to manage its financial operations. Any permitting solution must be able to interoperate with SAP financial systems. Ideally, the solution will export a daily transaction log in electronic format for uploading into SAP in order to record the day's cash receipts, as well as a hard-copy version for staff review prior to uploading into SAP. The transaction log should differentiate between cash (and cash-equivalent) transactions and credit card transactions where actual cash payment will occur at a later date between the City and the third-party payment service. The transaction log should also be able to differentiate transactions for permits placed on hold due to insufficient funds checks, and finally, differentiate transactions for permits removed from the hold list due to the permit holder honoring their insufficient funds check.

4.3.2 Third-Party Payment Service

4.3.2.1 The City expects to Contract for payment services as part of this procurement. The Contractor should be prepared to provide PCI-compliant payment services or to Contract with third-party providers which are PCI-compliant.

4.3.2.2 The City will include Contract language requiring that the Contractor interacting with credit card or other personal information certify that it and any of its sub-contractors are fully PCI-compliant. Further, the City will include Contract language authorizing the City to audit the Contractor or any sub-contract to ensure PCI-compliance.

4.3.3 Web Services

4.3.3.1 The Solution will make it possible for a customer to obtain permits via the existing Internet solution.

4.4 Training

4.4.1 The Contractor shall provide for a comprehensive training curriculum that will provide users with an understanding of the system's business operations, financial operations, administrative procedures, and/or technical support procedures to become proficient in the use of those aspects of the system, for which they have responsibility as required.

4.4.2 All training should occur at the primary work locations or at facilities provided by the City.

4.5 Documentation

4.5.1 The Contractor shall provide complete documentation for all components provided to the City as part of the Contract. Documentation should include user manuals, training manuals, and technical manuals, and should be electronically delivered and maintained.

4.6 Warranty and Ongoing Maintenance Support

4.6.1 The Contractor shall include descriptions of and costing for, at least, one year of complete service and maintenance for all hardware and software included in the Contractor's solution.

4.6.2 Contractor shall include a description of its continuing support and maintenance options.

5. OVERVIEW OF THE CITY'S TECHNICAL ENVIRONMENT

5.1. The Contractor shall host a solution that is wholly-owned and operated by a service provider.

5.2. Expected Desktop Configuration - At a minimum, City desktop computers will be configured with:

- 5.2.1. AMD Athlon Dual Core – 1.99 GHz
- 5.2.2. 2 GB RAM
- 5.2.3. 160 GB Hard Drive
- 5.2.4. 100 mbps NIC
- 5.2.5. PS/2 Keyboard & Mouse
- 5.2.6. Windows XP Professional – Service Pack 3 or latest
- 5.2.7. Office 2010.

5.3. The City's Refresh Program will ensure that all PCs are able to support 'modern' software applications.

6. Process:

6.1. General:

6.1.1. Contractor shall provide proven software that is a 100% .NET web-based solution delivered by a team with proven results.

6.2. Details of:

6.2.1. CDP will manage the City's license and permitting application process from start to finish for an unlimited number and type of permits and licenses (at least 65 permits currently

identified, but any other new permit / license can be added at any time). The system will intake applications, track and manage the review and issuance process, including inspections, multi-departmental review, fee calculations, payments, and printing of the permit or license and of associated receipts. Robust reporting, querying and self-configuration will be part of the CDP install.

6.2.2.CDP will capture, store, print and display information about all applications for permits, licenses, and inspections, including scheduling and fee information. The centralized system will associate permit / license applications to ***EITHER an address*** from the parcel database ***or a person/business*** from the people database. The City shall be able to update address / parcel or people / business information and associated activities in one central database.

6.2.3.The City will be provided with unlimited, concurrent user licenses for as many staff to access and work with the system as needed. The system operates via password-protected access to the system for unlimited, concurrent users with rights and privileges constrained to user roles and responsibilities.

6.2.4.Contractor will combine all functionality from Contractor's robust Permitting module with the people-based application intake functionality from Contractor's Business License module for the City's comprehensive solution to manage 36,000+ annual transactions handled through CDP.

6.2.5.Contractor will provide of the base CDP system with all functionality described in the Contract, including modification of inspection assignment by zip codes. The system shall encompass all "critical" items identified in the requirement chart and as summarized below

6.2.5.1. CDP License and Permitting Module: Contractor offers the ability to have multiple categories of Permits and Licenses with each category having multiple types. The permitting / license process shall be managed from start to finish with tracking of status, application date and the issue date. CDP comments functionality would be present at this level as well as the ability to associate individuals from the people database to the record in cases where the permit/license is associated to a property and not the individual.

6.2.5.2. CDP Base Module: The CDP solution requires a Base Module, which functions as the engine that drives the entire system. It must be deployed in conjunction with one or more modules in the CDP solution for the City of Houston within the Contract. The Base Module provides a centralized land administration and history database as well as a central People database tracking all Applicants, Owners, License Bureau Agents, Contractors, Architects, etc. All other modules in the CDP solution use this central information store in the CDP Base Module. It also provides for system administration, system configuration and system security and access roles.

6.2.5.3. Approval Process: Contractor shall provide the workflow required of some permit and license types. This will be managed through an "approval screen" which will follow an approval process that provides a matrix view of the approval status, and a common area for concerns and notations to be shared. The system supports multiple discussion threads by multiple staff / departments on with attributes of stages of approval being viewable.

6.2.5.4. Fee Generation: Fees shall be supported through both simple fee types such as quantity times cost, as well as the ability to support complex formula based fees.

6.2.5.5. Inspection Scheduling: Contractor shall provide the ability to both schedule and maintain the investigation process with each notation being associated to the main Permit / License record. In addition to all standard functionality in the existing CDP system, shall be the customization to have the inspections be assigned by zip code. As the screen image on this page demonstrates, the existing CDP system allows for inspections to be scheduled

and associated with an application, and for inspection history to be easily tracked, including the results of each inspection. The City's system will assign investigations by zip code based on the following enhancement to be added to the base system: the user profile will be enhanced to reflect an investigator's key assigned zip code(s). When a site investigation needs to be scheduled, the scheduling screen will be presented with only those inspectors that have an association of the defined zip code based on the zip code attribute of the permit/license application.

6.3. Web-Based Customizable Application Forms:

6.3.1. The Contractor shall include the ability to handle in a uniquely flexible and customizable way the fact that each permit/license has attributes that, while not a part of the fee calculation, are necessary for validation and reporting purposes. The Web-Based Customizable Forms component will provide this product enhancement.

6.3.2. Each permit/license type will have a Web-Based Customizable Application Form associated to the application. When a new permit/license record is inserted into the system a customizable web-form that has been created for a particular license will be displayed to provide the ability to capture additional information beyond the basic fields in the main screen.

6.3.3. This web-form shall be viewed internally by city staff, and can be exposed through the public portal.

6.3.3.1. Form Administration: Each form would have a form coordinator responsible for the form. The forms supervisor would have email notification capabilities that would provide an ad-hoc workflow mechanism for the administration of the licensing.

6.3.3.2. Table/Field Access: Given that each license could capture multiple attributes, the reporting tools will have access to the tables to generate reports of license attributes for each license type.

6.4. Cashiering:

6.4.1. CDP contains strict audits of all financial transactions and recordings, which has been crucial as one client (the City of Murrieta, CA) implemented the system after the City's Building Official embezzled more than \$250,000 and thus they had financial integrity, security and controls top of mind for operation of their new permits software. Every financial transaction in CDP is tightly tracked in the system and the system also allows for cash drawer balancing at the end of the day. The data tracked in the system can be reconciled with an external financial management system.

6.5. Custom Reports:

6.5.1. Using the CDP Query Builder, the City shall be able to perform robust queries of all system tables, or combination of tables. Outside of the Query Builder authorized staff can use SQL Report Writing Services to create additional or custom reports which can be initiated from a custom report feature within the CDP application. Additionally, the City shall use any relational report writer (Crystal Reports, R&R, etc.) to report on system data. Contractor shall also provide additional reports within the CDP system, or modify system standard reports/letters. Contract will provide a monthly download of all data to the city.

7. ADDITIONAL FUNCTIONALITY

7.1. Decal Management. With select permit/license types, a pre-printed "serialized" decal or sticker is issued to the customer. The customer shall purchase one decal or several. The decals may

have geo-based attributes. Decals shall also be allocated to the client in a range. A decal shall be issued and then a credit refunded for unused decals, requiring that the decal be resubmitted into the population of available numbers. The decals are pre-printed and serialized. Management of the decals has two principle areas:

7.1.1. Inventory Management: Through an administrative interface, the City shall have the ability to:

- 7.1.1.1.** Load decal inventory based on a range, and
- 7.1.1.2.** Manage the inventory. This would include the ability to:
 - a. Void a unique number.
 - b. Void a range.
 - c. Void (or retire) an entire upload.
 - d. Look up an individual number and view its license association.

7.2. Auto-Renewal Notices with Auto-Assignment of Work-Order/Inspection.

7.2.1. Association Management: When a License record is created, the City shall have the option to associate the license to a physical decal or sticker. The City shall select the number (s) matching the physical sticker number from the interface based on the associated license ID.

7.2.2. Permit/license types shall have the ability to generate renewal notices when a particular one is set to expire. The parameters of the notices may vary from thirty (30) days prior to expiration to ninety (90) days post expiration. Additional renewal attributes to drive this process could include length of time for notice before expiration and length of time following expiration. The ability to create several renewal notices on a per-license record shall also be available.

7.2.3. A notice would go out thirty (30) days prior and then subsequently 30, 60 and 90 days post expiration. In addition, the CDP system will be modified to handle the desired functionality of an auto-work order / investigation being created upon auto-generation of the renewal notices.

7.3. Public Portal.

7.3.1. The City of Houston requires 24/7 public facing portal as part of their long-term goals, which is in-line with the advanced e-Government projects that the Contractor is expert in delivering. The Public Portal shall provide the City's constituents with the ability to not only manage their Permit-based activities, but also the City's Licensing needs as well. The Online Portal Module shall allow constituents to complete permit and license applications, make payments, track the approval status of their licenses and permits, and when applicable schedule site inspections or investigations. At any time, 24/7, applicants can also check the status of their application with data presented in real-time for the most up-to-date information.

7.3.2. This customer-facing, online system shall allow businesses and citizens seeking to do business with the City of Houston to apply and pay for permits and licenses, request inspection scheduling times and check the status of their application 24/7.

7.3.2.1. Allow for the issuance of permits, licenses, inspection scheduling, and application status checks in real-time (coordinated with data entered by staff in internal system). The system also shall offer the ability to provide information on address permit and licenses history.

7.3.2.2. Automatically records permits and licenses obtained via the City's website.

- 7.3.2.3. Immediately issues permits and licenses that do not require an inspection after completion of the online permit application (with built-in business rules that can stop an application) – all data is stored in central system for staff to manage through inspection if not an “instant permit.”
- 7.3.2.4. Portal verifies that applicant addresses are valid and requires permit-specific criteria be input by the applicant. Criteria involve specific questions based on the type of permit or license being sought.
- 7.3.2.5. Provides a seamless link to the system from the City's website so that residents do not feel they have left the City's website.

8. SUPERSTRUCTURE

- 8.1. **Power Availability.** A/C Power systems in the datacenter shall run uninterrupted even in the unlikely event of a utility power outage. A/C power to the outbound port on Customer serving power distribution unit (PDU) is guaranteed to be available 100% of the time in a calendar month.
- 8.2. **HVAC Quality and Availability (Heating Ventilation and Air Conditioning).** Ambient room temperature will be 72 Degrees F in the server area of the datacenter. Ambient room temperature will not vary by more than +/- 5 degrees. Relative humidity will be targeted for 45% in the server area. Relative humidity will not vary by more than +/- 5%. Contractor guarantees that the HVAC facilities will provide adequate cooling 100% of the time in a calendar month.
- 8.3. **Physical Security.**
 - 8.3.1. **No Public Access.** Public access to Contractor datacenter is strictly forbidden. Only Contractor's engineers and other authorized personnel are allowed in the server areas of Contractor's data centers.
 - 8.3.2. **Biometric and Proximity access controls.** Access to Contractor's shall continue to strictly control access to datacenters through the use of biometric scanners and/or proximity access cards.
 - 8.3.3. **Fire Detection and Suppression.** Contractor shall endeavor to prevent and suppress potential causes of fires through the use of early detection systems. In the event of an actual fire, Contractor utilizes dry pipe pre-action fire suppression systems to suppress fire.
 - 8.3.4. **Network Availability.** Contractor's datacenter network infrastructure is guaranteed to be available 99.9% of the time in a calendar month. Network infrastructure is defined as the portion of the network extending from the outbound port on the customer cabinet switch to the outbound port on the border router. Contractor's guarantees 99.9% Availability of all components of the network infrastructure including switches, routers, and cabling.

9. SERVERS AND DEVICES

- 9.1. **Server Hardware Replacement.** Contractor guarantees the functioning of all leased hardware components and will replace any failed component at no additional cost to Customer. Hardware replacement will begin once a technician identifies the cause of the problem. Hardware replacement is guaranteed to be complete within one (1) hour of problem identification by Contractor. Hardware is defined as the server chassis, processor(s), memory, storage devices, motherboard, power supplies, and network interface cards. This guarantee excludes the time required to rebuild a RAID array, reload the operating system, reload and configure applications, and/or restore from backup (if necessary). In the event of a hardware failure which causes an outage in Customer's hosted configuration, failed hardware is guaranteed to be repaired or replaced within one (1) hour of problem identification by Contractor.

9.2. Customer Dedicated Advanced Networking Devices. Advanced network devices include hardware such as load balancers, routers, switches, and SSL accelerators.

9.3. Network Device Management. Contractor manages and maintains the advanced network devices in Customer's configuration. A default device configuration is implemented at the time of initial installation of advanced network devices in Customer's configuration unless otherwise specified by Customer. Changes to the default configuration must be specifically requested in writing by Customer. Basic configuration changes are guaranteed to be implemented within 24 hours of receipt of a written request from the customer.

10. SECURITY AND PATCHING.

10.1. Operating System and Application Patching. When any software vulnerability is revealed and addressed by a vendor patch, Contractor shall obtain the patches from the vendor and categorizes the urgency of application as either "critical" or "non-critical" in nature. Upon delivery of a patch, it is tested in Contractor's lab for quality assurance purposes prior to application to Customer's production environment. Quality assurance typically lasts less than 48 hours. Contractor shall apply all critical security patches, hot fixes, or service packs within 72-hours of completion of Contractor's quality assurance testing. Non-critical patches and service packs are typically applied after a minimum of thirty (30) days of testing in Contractor's lab and Contractor's internal production environment. Upon written request from Customer, Contractor shall apply any Contractor-supplied patch to Contractor-supported software within four (4) hours of receiving a written request.

10.2. Firewall Management. Firewalls are managed and monitored 24/7/365 by Contractor's security engineers. Contractor's default firewall rule-set adheres to a strict "default-deny" policy which means that only a select few TCP/UDP ports are open on the firewall for Customer remote management purposes. The opening of additional ports shall be specifically requested in writing by Customer. Firewall rule-set changes will be reviewed, and if approved, implemented within 24 hours of receipt of written request from Customer.

11. BACKUP AND RESTORE.

11.1. Data Backup. Contractor's schedules, performs, monitors, and maintains Customer data backups.

11.2. Default Backup Policy. Contractor shall backup all files and file systems on each server in Customer's configuration. Backups will be scheduled to begin at approximately 2:00 am EST each day or begin during a predetermined window acceptable to Contractor and to Customer. Default backup policy includes weekly full backups and daily differential backups of all files to a central tape library. Data backups are retained offsite for two (2) weeks unless otherwise contracted.

11.3. Database Backups. Open database files cannot be backed up without the use of a software backup agent. Databases will only be backed up if such a backup software agent specific to Customer's database software is utilized, or if databases are dumped to flat files prior to scheduled backup. A backup agent for Microsoft SQL Server 2000 is included by default for all servers identified as SQL servers during sales process.

11.4. Data Restoration – Local restores. Contractor shall initiate restoration of Customer's data within two (2) hours of receipt of Customer's written request. Customer is allowed two (2) free restoration events per calendar month. Additional restores will be billed at Contractor's standard hourly rates.

11.5. **Data Restoration – Offsite Restores.** Contractor shall initiate restoration of Customer's data within six (6) hours of receipt of Customer's written request. Customer is allowed one (1) free restoration event per calendar month. Additional restores will be billed at Contractor's standard hourly rates.

12. MONITORING AND RESPONSE.

12.1. **Monitoring Availability:** Contractor shall monitor up to six (6) TCP ports (HTTP, HTTPS, SMTP, POP3, Etc.) per server for service availability. General server availability is also monitored via PING at a maximum of five (5) minute intervals.

12.2. **Fault Monitoring.** Contractor shall monitor status events on servers and network devices including network availability, process status, file system capacity, and backup success/failure. Contractor shall also monitor core OS and application log files for critical/warning application and system events.

12.3. **Performance Monitoring.** Contractor shall monitor key performance metrics for operating system (CPU, RAM, Swap), applications (process statistics, users, throughput) and databases (caching, performance, transaction success).

12.4. **Response to Monitoring Alerts and City-Initiated Trouble Tickets:** When alerted of a failure by any of Contractor's monitoring systems, Contractor shall begin troubleshooting and addressing the problem within fifteen (15) minutes and will initiate Customer contact via support ticket, telephone call, or both depending upon the severity of the situation or the rules of engagement according to the table below. City-initiated trouble tickets will receive responses in the same manner.

12.5. Priority/Severity Levels and Guaranteed Response Times

<u>Priority/Severity Level</u>	<u>Example Situation</u>	<u>Support</u>	<u>Response Time</u>
<u>Emergency:</u> Server, site, or network down.	City cannot access your server or site from the public Internet.	24 X 7	Within 15 minutes
<u>Urgent:</u> Server or site functioning improperly or at less than optimal performance.	City's server or site is accessible but in a reduced state (timeouts or slow response).	24 X 7	Within 1 hour
<u>Standard:</u> Non-critical; server or site is functioning normal, but customer requires information or assistance on Contractor's services, wishes to schedule maintenance outages, or any other non-immediate tasks.	City's site is functioning with acceptable parameters, but you require assistance in loading software or have a help desk-type question.	24 X 7	Within 4 hours

Reduced state (timeouts or slow responses) – If the city sees response times increase to over 15 seconds per operation more than 10 times in a one month period, the Contractor will be responsible for implementing and architectural upgrade that will remediate the issue.

EXHIBIT A-1

MAINTENANCE AND SUPPORT SERVICES

1. **Support Services.** City's fees for Application Hosting Services and maintenance shall be as stated in Exhibit B. For so long as City is current in the payment of the fees Application Hosting Services Annual fee, the City will be entitled to Application Hosting and maintenance and support services for the System.

2. SCHEDULED CITY MAINTENANCE

2.1. Scheduled City maintenance includes installation of hot fixes, service packs, software and software upgrades, pre-failure hardware replacement, hardware upgrades, etc. It also includes shutdowns or reboots that occur in the normal course of maintaining a server. City will be notified in advance of a scheduled maintenance event unless specifically agreed to otherwise. Notification of scheduled maintenance will take place via email, support ticket, or phone call to City technical contact, or a combination of the above depending upon the nature of the issue. Whenever possible, maintenance will be performed during City's off-peak hours. Contractor reserves the right to perform emergency maintenance without notice if the maintenance is reasonably necessary to maintain security of the server or other customers.

2.2. **Maintenance Windows.** Maintenance Windows are scheduled maintenance events that are scheduled a minimum of 72 hours in advance. The purpose of a maintenance window is to perform maintenance activities such as changes or upgrades to shared infrastructure, core routing or switching equipment, or other datacenter facilities. "Notifications of Maintenance Windows" are sent via email to all City contacts on record. Maintenance Windows typically occur two to three times per year during off-peak hours and are supervised by executive level management.

2.3. **Measurement Time Period.** Availability of calculations shall be based upon an individual calendar month.

EXHIBIT B

FEE PAYMENT SCHEDULE

The City shall pay Contractor the Application Hosting and Maintenance Services Fee annually as described below:

Application Hosting and Maintenance Services Annual Fee

Year 1	\$132,000.00
Year 2	\$132,000.00
Year 3	\$132,000.00
Year 4	\$132,000.00
Year 5	\$132,000.00
TOTAL	\$660,000.00

Discretionary Expenses: \$50,000.00 total during the Term in accordance with Section 4.1 (Payment Terms) of this Agreement.

EXHIBIT C

EQUAL EMPLOYMENT OPPORTUNITY

1. The contractor, subcontractor, vendor, supplier, or lessee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, or age. The contractor, subcontractor, vendor, supplier, or lessee will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, religion, color, sex, national origin, or age. Such action will include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation and selection for training, including apprenticeship. The contractor, subcontractor, vendor, supplier or lessee agrees to post in conspicuous places available to employees, and applicants for employment, notices to be provided by the City setting forth the provisions of this Equal Employment Opportunity Clause.
2. The contractor, subcontractor, vendor, supplier, or lessee states that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex, national origin or age.
3. The contractor, subcontractor, vendor, supplier, or lessee will send to each labor union or representatives of workers with which it has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer advising the said labor union or worker's representative of the contractor's and subcontractor's commitments under Section 202 of Executive Order No. 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The contractor, subcontractor, vendor, supplier, or lessee will comply with all provisions of Executive Order No. 11246 and the rules, regulations, and relevant orders of the Secretary of Labor or other Federal Agency responsible for enforcement of the equal employment opportunity and affirmative action provisions applicable and will likewise furnish all information and reports required by the Mayor and/or Contractor Compliance Officer(s) for purposes of investigation to ascertain and effect compliance with this program.
5. The contractor, subcontractor, vendor, supplier, or lessee will furnish all information and reports required by Executive Order No. 11246, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to all books, records, and accounts by the appropriate City and Federal Officials for purposes of investigations to ascertain compliance with such rules, regulations, and orders. Compliance reports filed at such times as directed shall contain information as to the employment practice policies, program, and work force statistics of the contractor, subcontractor, vendor, supplier, or lessee.
6. In the event of the contractor's, subcontractor's, vendor's, supplier's, or lessee's non-compliance with the nondiscrimination clause of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part, and the contractor, subcontractor, vendor, supplier, or lessee may be declared ineligible for further City contracts in accordance with procedures provided in Executive Order No. 11246, and such other sanctions may be imposed and remedies invoked as provided in the said Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as may otherwise be provided by law.
7. The contractor shall include the provisions of paragraphs 1-8 of this Equal Employment Opportunity Clause in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that in the event the contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the United States to enter into such litigation to protect the interests of the United States.
8. The contractor shall file and shall cause his or her subcontractors, if any, to file compliance reports with the City in the form and to the extent as may be prescribed by the Mayor. Compliance reports filed at such times as directed shall contain information as to the practices, policies, programs, and employment policies and employment statistics of the contractor and each subcontractor.

EXHIBIT D

DRUG POLICY COMPLIANCE AGREEMENT

I, as an owner or officer of (Name) (Print/Type) (Title) Michael Daniel, CEO (Contractor)

(Name of Company)

HR Green, Inc.

have authority to bind Contractor with respect to its bid, offer or performance of any and all contracts it may enter into with the City of Houston; and that by making this Agreement, I affirm that the Contractor is aware of and by the time the contract is awarded will be bound by and agree to designate appropriate safety impact positions for company employee positions, and to comply with the following requirements before the City issues a notice to proceed:

1. Develop and implement a written Drug Free Workplace Policy and related drug testing procedures for the Contractor that meet the criteria and requirements established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Drug Policy) and the Mayor's Drug Detection and Deterrence Procedures for Contractors (Executive Order No. 1-31).
2. Obtain a facility to collect urine samples consistent with Health and Human Services (HHS) guidelines and a HHS certified drug testing laboratory to perform the drug tests.
3. Monitor and keep records of drug tests given and the results; and upon request from the City of Houston, provide confirmation of such testing and results.
4. Submit semi-annual Drug Policy Compliance Declarations.

I affirm on behalf of the Contractor that full compliance with the Mayor's Drug Policy and Executive Order No. 1-31 is a material condition of the contract with the City of Houston.

I further acknowledge that falsification, failure to comply with or failure to timely submit declarations and/or documentation in compliance with the Mayor's Drug Policy and/or Executive Order No. 1-31 will be considered a breach of the contract with the City and may result in non-award or termination of the contract by the City of Houston.

April 8, 2013
Date

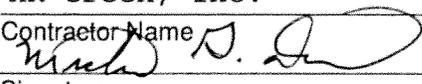
HR Green, Inc.
Contractor Name 
Signature
CEO
Title

EXHIBIT E

DRUG POLICY COMPLIANCE DECLARATION

I, Michael Daniel, CEO as an owner or officer of
(Name) (Print/Type) (Title) _____ (Contractor)
(Name of Company) HR Green, Inc.

have personal knowledge and full authority to make the following declarations:

This reporting period covers the preceding 6 months from 10/2012 to 03/2013.

A written Drug Free Workplace Policy has been implemented and employees Initials notified. The policy meets the criteria established by the Mayor's Amended Policy on Drug Detection and Deterrence (Mayor's Policy).

Written drug testing procedures have been implemented in conformity with the Initials Mayor's Drug Detection and Deterrence Procedures for Contractors, Executive Order No. 1-31.

Employees have been notified of such procedures.

Collection/testing have been conducted in compliance with federal Health and Initials Human Services (HHS) guidelines.

Appropriate safety impact positions have been designated for employee Initials positions performing on the City of Houston contract. The number of employees in safety impact positions during this reporting period is.

Initials	From (Start date)	to (End date)	the following test has occurred		
	Random		Reasonable Suspicion	Post-Accident	Total

Number Employees Tested Number Employees Positive Percent Employees Positive I declare under penalty of perjury that the affirmations made herein and all information contained in this declaration are within my personal knowledge and are true and correct.

Initials Any employee who tested positive was immediately removed from the City worksite consistent with the Mayor's Policy and Executive Order No. 1-31.

Initials I affirm that falsification or failure to submit this declaration timely in accordance with established guidelines will be considered a breach of contract.

April 8, 2013
Date

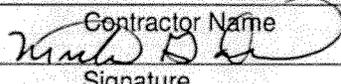
Michael G. Daniel
Contractor Name

Signature
CEO
Title

EXHIBIT F

**CONTRACTOR'S CERTIFICATION OF NO SAFETY IMPACT POSITIONS IN PERFORMANCE OF A
CITY CONTRACT**

I, Michael Daniel, CEO as an officer or officer of
(Name) (Print/Type) (Title)
HR Green, Inc. (Engineer)
(Name of Company)

have authority to bind the Contractor with respect to its bid, and hereby certify that Contractor has no employee safety impact positions, as defined in §5.18 of Executive Order No. 1-31, that will be involved in performing. _____

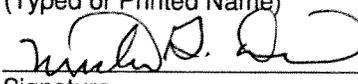
(Project)

Contractor agrees and covenants that it shall immediately notify the City of Houston Director of Personnel if any safety impact positions are established to provide services in performing this City Contract.

April 8, 2013
(Date)

Michael G. Daniel

(Typed or Printed Name)


Signature

CEO

Title

EXHIBIT G

MBWE SUBCONTRACT TERMS

Contractor shall insure that all subcontracts with MWBE subcontractors and suppliers are clearly labeled "THIS CONTRACT IS SUBJECT TO BINDING ARBITRATION ACCORDING TO THE TEXAS GENERAL ARBITRATION ACT" and contain the following terms:

1. _____ (MWBE subcontractor) shall not delegate or subcontract more than 50% of the work under this subcontract to any other subcontractor or supplier without the express written consent of the City of Houston's Affirmative Action Director ("the Director").

2. _____ (MWBE subcontractor) shall permit representatives of the City of Houston, at all reasonable times, to perform (1) audits of the books and records of the subcontractor, and (2) inspections of all places where work is to be undertaken in connection with this subcontract. Subcontractor shall keep such books and records available for inspection for at least 4 years after the end of its performance under this subcontract. Nothing in this provision shall change the time for bringing a cause of action.

3. Within five business days of execution of this subcontract, Contractor and Subcontractor shall designate in writing to the Director an agent for receiving any notice required or permitted to be given pursuant to Chapter 15 of the Houston City Code of Ordinances, along with the street and mailing address and phone number of such agent.

4. Any controversy between the parties involving the construction or application of any of the terms, covenants or conditions of this subcontract shall, on the written request of one party served upon the other or upon notice by Director served on both parties, be submitted to binding arbitration, under the Texas General Arbitration Act (Tex. Civ. Prac. & Rem. Code Ann., Ch. 171 -- "the Act"). Arbitration shall be conducted according to the following procedures:

a. Upon the decision of the Director or upon written notice to the Director from either party that a dispute has arisen, the Director shall notify all parties that they must resolve the dispute within thirty (30) days or the matter may be referred to arbitration.

b. If the dispute is not resolved within the time specified, any party or the Director may submit the matter to arbitration conducted by the American Arbitration Association under the rules of the American Arbitration Association, except as otherwise required by the City's contract with American Arbitration Association on file in the Office of the City's Affirmative Action Division.

c. Each party shall pay all fees required by the American Arbitration Association and sign a form releasing the American Arbitration Association and its arbitrators from liability for decisions reached in the arbitration.

d. If the American Arbitration Association no longer administers Affirmative Action arbitration for the City, the Director shall prescribe alternate procedures as necessary to provide arbitration by neutrals in accordance with the requirements of Chapter 15 of the Houston City Code of Ordinances.

e. All arbitrations shall be conducted in Houston, Texas unless the parties agree to another location in writing.



EXHIBIT H
Pay or Play POP-2 FORM



Contractor Name: HR Green, Inc. \$ _____
(Contractor/Subcontractor) (Amount of Contract)

Contractor Address: 8710 Earhart Lane SW, Cedar Rapids, IA 52404

Project No.: [GFS/CIP/AIP/File No.] Sole Source Renewal Contract E24215

Project Name: [Legal Project Name] Hosted Licensing and Permits System

POP Liaison Name: Gracie Orr

In accordance with the City of Houston Pay or Play Program authorized by Ordinance 2007-534 and Executive Order 1-7, Contractor/Subcontractor agrees to abide by the terms of this Program. This certification is required of all contractors for contracts subject to the program. You must agree EITHER to PAY or to PLAY for all covered employees. The Contractor/Subcontractor may also Pay on behalf of some covered employees and Play on behalf of other covered employees.

The Contractor/Subcontractor will comply with all provisions of the Pay or Play Program and will furnish all information and reports requested to determine compliance with program requirements of the Pay or Play Program (See Executive Order 1-7 for the terms of the Pay or Play program) The criteria of the program is as follows:

The Contractor/Subcontractor agrees to "Pay" \$1.00 per hour for work performed by covered employees under the contract with the City. If independent contract labor is utilized the Contractor/Subcontractor agrees to report hours worked by the independent contract laborer and pay \$1.00 per hour for work performed.

Otherwise the Contractor/Subcontractor agrees to "Play" by providing health benefits to each covered employee. The health benefits must meet the following criteria:

1. The employer will contribute no less than \$150 per employee per month toward the total premium cost for single coverage only; and
2. The employee contribution, if any amount, will be no greater than 50% of the total premium cost and no more than \$150 per month.
3. Pursuant to E.O. 1-7 section 4.04 a contractor is deemed to have complied with respect to a covered employee who is not provided health benefits if the employee refuses the benefits and the employee's contribution to the premium is no more than \$40 per month.

	Pay	Play	Both
		X	

The Contractor/Subcontractor will file compliance reports with the City, which will include activity for covered employees subject to the program, in the form and to the extent requested by the administering department. Compliance reports shall contain information including, but not limited to, documentation showing employee health coverage and employee work records.

Note: The Contractor is responsible to the City for the compliance of covered employees of covered subcontractors and only forms that are accurate and complete will be accepted.

*Estimated Number of:	Prime Contractor	Sub-Contractor
Total Employees on City Job	1	
Covered Employees	1	
Non-Covered Employees		
Exempt Employees		

***Required**

I hereby certify that the above information is true and correct.

Michael G. Daniel

Contractor (Signature)
Michael G. Daniel, CEO
 Name and Title (Print or type)

11.1.2012
Date

EXHIBIT I

ESCROW AGREEMENT

I. ESTABLISHMENT OF ESCROW

So long as the within-described license is in full force and effect, and as an additional material consideration for the granting, acceptance and continued benefits obtained and derived from such license, Contractor and the City agree that a copy of all source code material necessary to maintain all software licensed thereunder shall be placed in escrow as follows.

- A. The Escrow Agent shall be Iron Mountain, 745 Atlantic Ave Boston, MA 02111. In the event that the above-named Escrow Agent fails or refuses to assume the responsibilities of Escrow Agent or ceases to act as Escrow Agent, the parties shall agree upon a new Escrow Agent and shall issue demands to Data Securities International to deliver the escrow material to such newly designated Escrow Agent.
- B. Source code material shall be released to the City by the Escrow Agent upon the occurrence of the following event:
 - i. If any proceeding in receivership, liquidation or insolvency is commenced against Contractor and the same be not dismissed within sixty days, or
 - ii. If Contractor makes any assignment for the benefit of its creditors, becomes insolvent, ceases to do business as a going concern, or seeks any arrangement of compromise with its creditors under any statute or otherwise.
- C. Verification of the occurrence of a condition precedent to the release of the escrowed materials shall be by a reasonable manner and means to the reasonable satisfaction of the Escrow Agent with written notice and opportunity to object given to Contractor. The Escrow Agent shall have five days to release the escrowed documents or to advise the City in writing of the existence of a conflicting demand.
- D. Contractor will pay Escrow Agent's fees to list the City on the escrow policy.

II. VERIFICATION OF ESCROWED MATERIALS

Verification of escrowed materials shall be by certified letter from the Escrow Agent to the City stating the identity of each document placed in escrow, the physical location of the escrow, and the date of establishment of the escrow.

III. ENHANCEMENT AND MODIFICATION

In the event that the software supplied to the City pursuant to the above-described license is enhanced or modified, the Licensor agrees to deposit into escrow all documents and data reasonably necessary to support and maintain such enhancements and modifications pursuant to all of the terms and conditions of this escrow agreement.

IV. CONFLICTING DEMANDS

In the event that the parties to this agreement, at any time, give the Escrow Agent conflicting demands, the Escrow Agent shall promptly attempt to resolve the conflict. In the event that the Escrow Agent is unable to resolve the conflict within ten days, the Escrow Agent shall interplead the escrowed materials into a court of competent jurisdiction.

V. TERMS OF RELEASE OF ESCROWED MATERIAL

In the event that the material escrowed hereunder is released to Licensee, said materials shall nevertheless remain the property of Contractor, its assigns, trustees, and/or successors in interest. The escrowed materials shall be subject to all of the terms and conditions of the underlying license granted to Licensee, including but not limited to, trade secrets and confidentiality protection. The City agrees that the escrowed materials shall be used exclusively for the maintenance of the licensed software and for no other purposes. The City agrees to make all persons working with such licensed escrowed material aware of the terms and conditions of the license and their liability for unauthorized use of the licensed escrow material.