

**CONSULTING SERVICES AGREEMENT BETWEEN
THE CITY OF SAN LEANDRO AND
INVENGO TECHNOLOGY CORP
FOR
A LIBRARY RFID SYSTEM**

THIS AGREEMENT for consulting services is made by and between the City of San Leandro (“City”) and Invengo Technology Corp (“Consultant”) (together sometimes referred to as the “Parties”) as of July 20, 2020 (the “Effective Date”).

Section 1. SERVICES. Subject to the terms and conditions set forth in this Agreement, Consultant shall provide to City the services described in the Scope of Work attached as Exhibit A at the time and place and in the manner specified therein. In the event of a conflict in or inconsistency between the terms of this Agreement and Exhibit A, the Agreement shall prevail.

- 1.1 **Term of Services.** The term of this Agreement shall begin on the Effective Date and shall end on September 30, 2021, the date of completion specified in Exhibit A, and Consultant shall complete the work described in Exhibit A on or before that date, unless the term of the Agreement is otherwise terminated or extended, as provided for in Section 8. The time provided to Consultant to complete the services required by this Agreement shall not affect the City’s right to terminate the Agreement, as referenced in Section 8.
- 1.2 **Standard of Performance.** Consultant shall perform all services required pursuant to this Agreement in the manner and according to the standards observed by a competent practitioner of the profession in which Consultant is engaged.
- 1.3 **Assignment of Personnel.** Consultant shall assign only competent personnel to perform services pursuant to this Agreement. In the event that City, in its sole discretion, at any time during the term of this Agreement, desires the reassignment of any such persons, Consultant shall, immediately upon receiving notice from City of such desire of City, reassign such person or persons.
- 1.4 **Time.** Consultant shall devote such time to the performance of services pursuant to this Agreement as may be reasonably necessary to meet the standard of performance provided in Subsection 1.2 above and to satisfy Consultant’s obligations hereunder.
- 1.5 **City of San Leandro Living Wage Rates.** This contract may be covered by the City of San Leandro Living Wage Ordinance (LWO). Bidder’s attention is directed to the San Leandro Municipal Code, Title 1, Chapter 6, Article 6. Successful Bidder must submit completed self-certification form and comply with the LWO if covered.

Section 2. COMPENSATION. City hereby agrees to pay Consultant a sum not to exceed \$358,491.04 not withstanding any contrary indications that may be contained in Consultant’s proposal, for services to be performed and reimbursable costs incurred under this Agreement. In the event of a conflict between this Agreement and Consultant’s proposal, attached as Exhibit A, regarding the amount of compensation, the Agreement shall prevail. City shall pay Consultant for services rendered pursuant to this

Agreement at the time and in the manner set forth herein. The payments specified below shall be the only payments from City to Consultant for services rendered pursuant to this Agreement. Consultant shall submit all invoices to City in the manner specified herein. Except as specifically authorized by City in writing, Consultant shall not bill City for duplicate services performed by more than one person.

Consultant and City acknowledge and agree that compensation paid by City to Consultant under this Agreement is based upon Consultant's estimated costs of providing the services required hereunder, including salaries and benefits of employees and subcontractors of Consultant. Consequently, the Parties further agree that compensation hereunder is intended to include the costs of contributions to any pensions and/or annuities to which Consultant and its employees, agents, and subcontractors may be eligible. City therefore has no responsibility for such contributions beyond compensation required under this Agreement.

2.1 Invoices. Consultant shall submit invoices, not more often than once a month during the term of this Agreement, based on the cost for services performed and reimbursable costs incurred prior to the invoice date. Invoices shall contain the following information:

- Serial identifications of progress bills; i.e., Progress Bill No. 1 for the first invoice, etc.;
- The beginning and ending dates of the billing period;
- A Task Summary containing the original contract amount, the amount of prior billings, the total due this period, the balance available under the Agreement, and the percentage of completion;
- At City's option, for each work item in each task, a copy of the applicable time entries or time sheets shall be submitted showing the name of the person doing the work, the hours spent by each person, a brief description of the work, and each reimbursable expense;
- The total number of hours of work performed under the Agreement by Consultant and each employee, agent, and subcontractor of Consultant performing services hereunder;
- The Consultant's signature;
- Consultant shall give separate notice to the City when the total number of hours worked by Consultant and any individual employee, agent, or subcontractor of Consultant reaches or exceeds 800 hours within a 12-month period under this Agreement and any other agreement between Consultant and City. Such notice shall include an estimate of the time necessary to complete work described in Exhibit A and the estimate of time necessary to complete work under any other agreement between Consultant and City, if applicable.

2.2 Monthly Payment. City shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. City

shall have 30 days from the receipt of an invoice that complies with all of the requirements above to pay Consultant.

- 2.3 Final Payment.** City shall pay the last 10% of the total sum due pursuant to this Agreement within 60 days after completion of the services and submittal to City of a final invoice, if all services required have been satisfactorily performed.
- 2.4 Total Payment.** City shall pay for the services to be rendered by Consultant pursuant to this Agreement. City shall not pay any additional sum for any expense or cost whatsoever incurred by Consultant in rendering services pursuant to this Agreement. City shall make no payment for any extra, further, or additional service pursuant to this Agreement.
- In no event shall Consultant submit any invoice for an amount in excess of the maximum amount of compensation provided above either for a task or for the entire Agreement, unless the Agreement is modified prior to the submission of such an invoice by a properly executed change order or amendment.
- 2.5 Hourly Fees.** Fees for work performed by Consultant on an hourly basis shall not exceed the amounts shown on the compensation schedule attached hereto as Exhibit B.
- 2.6 Reimbursable Expenses.** Reimbursable expenses are specified in Exhibit B, and shall not exceed \$0. Expenses not listed in Exhibit B are not chargeable to City. Reimbursable expenses are included in the total amount of compensation provided under this Agreement that shall not be exceeded.
- 2.7 Payment of Taxes.** Consultant is solely responsible for the payment of employment taxes incurred under this Agreement and any similar federal or state taxes.
- 2.8 Payment upon Termination.** In the event that the City or Consultant terminates this Agreement pursuant to Section 8, the City shall compensate the Consultant for all outstanding costs and reimbursable expenses incurred for work satisfactorily completed as of the date of written notice of termination. Consultant shall maintain adequate logs and timesheets to verify costs incurred to that date.
- 2.9 Authorization to Perform Services.** The Consultant is not authorized to perform any services or incur any costs whatsoever under the terms of this Agreement until receipt of authorization from the Contract Administrator.

Section 3. FACILITIES AND EQUIPMENT. Except as set forth herein, Consultant shall, at its sole cost and expense, provide all facilities and equipment that may be necessary to perform the services required by this Agreement. City shall make available to Consultant only the facilities and equipment listed in this section, and only under the terms and conditions set forth herein.

City shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Consultant's use while consulting with City employees and reviewing records and the information in possession of the City. The location, quantity, and time of furnishing those facilities shall

be in the sole discretion of City. City shall also provide, as needed, on-site and remote access to the City's computer and network infrastructure with sufficient security privileges to complete the work. In no event is the City obligated to furnish any facility that may involve incurring any direct expense, including but not limited communication charges, vehicles, and reproduction facilities.

Section 4. INSURANCE REQUIREMENTS Before fully executing this Agreement, Contractor, at its own cost and expense, unless otherwise specified below, shall procure the types and amounts of insurance listed below against claims for injuries to persons or damages to property that may arise from or in connection with the performance of the work hereunder by the Contractor and its agents, representatives, employees, and subcontractors. Consistent with the following provisions, Contractor shall provide proof satisfactory to City of such insurance that meets the requirements of this section and under forms of insurance satisfactory in all respects, and that such insurance is in effect prior to beginning work. Contractor shall maintain the insurance policies required by this section throughout the term of this Agreement. The cost of such insurance shall be included in the Contractor's bid. Contractor shall not allow any subcontractor to commence work on any subcontract until Contractor has obtained all insurance required herein for the subcontractor(s) and provided evidence to City that such insurance is in effect. VERIFICATION OF THE REQUIRED INSURANCE SHALL BE SUBMITTED AND MADE PART OF THIS AGREEMENT PRIOR TO EXECUTION. Contractor shall maintain all required insurance listed herein for the duration of this Agreement.

The City uses the online insurance program PINS Advantage. Contractor will receive an email from the City's online insurance program requesting the email be forwarded to the Contractor's insurance provider(s). All certificates of insurance and original endorsements effecting coverage required in Section 4 must be electronically submitted through the online insurance program PINS Advantage, www.PINSAdvantage.com.

4.1 Workers' Compensation.

4.1.1 General Requirements. Contractor shall, at its sole cost and expense, maintain Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than \$1,000,000 per accident. In the alternative, Contractor may rely on a self-insurance program to meet these requirements, but only if the program of self-insurance complies fully with the provisions of the California Labor Code. Determination of whether a self-insurance program meets the standards of the California Labor Code shall be solely in the discretion of the Contract Administrator.

The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Contractor, its employees, agents, and subcontractors.

4.1.2 Submittal Requirements. To comply with Subsection 4.1, Contractor shall submit the following:

- a. Certificate of Workers' Compensation Insurance in the amounts specified in the section; and
- b. Waiver of Subrogation Endorsement as required by the section.

4.2 Commercial General and Automobile Liability Insurance.

4.2.1 General Requirements. Contractor, at its own cost and expense, shall maintain commercial general liability insurance for the term of this Agreement in an amount not less than \$1,000,000 per occurrence, combined single limit coverage for risks associated with the work contemplated by this Agreement. If a Commercial General Liability Insurance or an Automobile Liability form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned automobiles.

4.2.2 Minimum Scope of Coverage. Commercial general coverage shall be at least as broad as Insurance Services Office Commercial General Liability occurrence form CG 0001 (most recent edition) covering comprehensive General Liability on an "occurrence" basis. Automobile coverage shall be at least as broad as Insurance Services Office Automobile Liability form CA 0001, Code 1 (any auto). No endorsement shall be attached limiting the coverage.

4.2.3 Additional Requirements. Each of the following shall be included in the insurance coverage or added as a certified endorsement to the policy:

- a. The Insurance shall cover on an occurrence or an accident basis, and not on a claims-made basis.
- b. City, its officers, officials, employees, and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Contractor; or automobiles owned, leased, hired, or borrowed by the Contractor.
- c. Contractor hereby agrees to waive subrogation which any insurer or contractor may require from vendor by virtue of the payment of any loss. Contractor agrees to obtain any endorsements that may be necessary to affect this waiver of subrogation.
- d. For any claims related to this Agreement or the work hereunder, the Contractor's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees, and volunteers. Any insurance

or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

4.2.4 Submittal Requirements. To comply with Subsection 4.2, Contractor shall submit the following:

- a. Certificate of Liability Insurance in the amounts specified in the section;
- b. Additional Insured Endorsement as required by the section;
- c. Waiver of Subrogation Endorsement as required by the section; and
- d. Primary Insurance Endorsement as required by the section.

4.5 All Policies Requirements.

4.5.1 Acceptability of Insurers. All insurance required by this section is to be placed with insurers with a Bests' rating of no less than A:VII.

4.5.2 Verification of Coverage. Prior to beginning any work under this Agreement, Consultant shall furnish City with complete copies of all Certificates of Liability Insurance delivered to Consultant by the insurer, including complete copies of all endorsements attached to the policies. All copies of Certificates of Liability Insurance and certified endorsements shall show the signature of a person authorized by that insurer to bind coverage on its behalf. If the City does not receive the required insurance documents prior to the Consultant beginning work, it shall not waive the Consultant's obligation to provide them. The City reserves the right to require complete copies of all required insurance policies at any time.

4.5.3 Deductibles and Self-Insured Retentions. Consultant shall disclose to and obtain the written approval of City for the self-insured retentions and deductibles before beginning any of the services or work called for by any term of this Agreement. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, employees, and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

4.5.4 Wasting Policies. No policy required by this Section 4 shall include a "wasting" policy limit (i.e. limit that is eroded by the cost of defense).

4.5.5 Endorsement Requirements. Each insurance policy required by Section 4 shall be endorsed to state that coverage shall not be canceled by either party, except after 30 days' prior written notice has been provided to the City.

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

4.6 Remedies. In addition to any other remedies City may have if Consultant fails to provide or maintain any insurance policies or policy endorsements to the extent and within the time herein required, City may, at its sole option exercise any of the following remedies, which are alternatives to other remedies City may have and are not the exclusive remedy for Consultant's breach:

- Obtain such insurance and deduct and retain the amount of the premiums for such insurance from any sums due under the Agreement;
- Order Consultant to stop work under this Agreement or withhold any payment that becomes due to Consultant hereunder, or both stop work and withhold any payment, until Consultant demonstrates compliance with the requirements hereof; and/or
- Terminate this Agreement.

Section 5. **INDEMNIFICATION AND CONSULTANT'S RESPONSIBILITIES.** Refer to the attached Exhibit C, which is incorporated herein and made a part of this Agreement.

Section 6. **STATUS OF CONSULTANT.**

6.1 Independent Contractor. At all times during the term of this Agreement, Consultant shall be an independent contractor and shall not be an employee of City. City shall have the right to control Consultant only insofar as the results of Consultant's services rendered pursuant to this Agreement and assignment of personnel pursuant to Subsection 1.3; however, otherwise City shall not have the right to control the means by which Consultant accomplishes services rendered pursuant to this Agreement. Notwithstanding any other City, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing services under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any and all claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in the California Public Employees Retirement System (PERS) as an employee of City and entitlement to any contribution to be paid by City for employer contributions and/or employee contributions for PERS benefits.

6.2 Consultant Not an Agent. Except as City may specify in writing, Consultant shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Consultant shall have no authority, express or implied, pursuant to this Agreement to bind City to any obligation whatsoever.

Section 7. **LEGAL REQUIREMENTS.**

- 7.1 **Governing Law.** The laws of the State of California shall govern this Agreement.
- 7.2 **Compliance with Applicable Laws.** Consultant and any subcontractors shall comply with all laws and regulations applicable to the performance of the work hereunder, including but not limited to, the California Building Code, the Americans with Disabilities Act, and any copyright, patent or trademark law. Consultant's failure to comply with any law(s) or regulation(s) applicable to the performance of the work hereunder shall constitute a breach of contract.
- 7.3 **Other Governmental Regulations.** To the extent that this Agreement may be funded by fiscal assistance from another governmental entity, Consultant and any subcontractors shall comply with all applicable rules and regulations to which City is bound by the terms of such fiscal assistance program.
- 7.4 **Licenses and Permits.** Consultant represents and warrants to City that Consultant and its employees, agents, and any subcontractors have all licenses, permits, qualifications, and approvals of whatsoever nature that are legally required to practice their respective professions. Consultant represents and warrants to City that Consultant and its employees, agents, any subcontractors shall, at their sole cost and expense, keep in effect at all times during the term of this Agreement any licenses, permits, and approvals that are legally required to practice their respective professions. In addition to the foregoing, Consultant and any subcontractors shall obtain and maintain during the term of this Agreement valid Business Licenses from City.
- 7.5 **Nondiscrimination and Equal Opportunity.** Consultant shall not discriminate, on the basis of a person's race, religion, color, national origin, age, physical or mental handicap or disability, medical condition, marital status, sex, or sexual orientation, against any employee, applicant for employment, subcontractor, bidder for a subcontract, or participant in, recipient of, or applicant for any services or programs provided by Consultant under this Agreement. Consultant shall comply with all applicable federal, state, and local laws, policies, rules, and requirements related to equal opportunity and nondiscrimination in employment, contracting, and the provision of any services that are the subject of this Agreement, including but not limited to the satisfaction of any positive obligations required of Consultant thereby.

Consultant shall include the provisions of this Subsection in any subcontract approved by the Contract Administrator or this Agreement.

Section 8. TERMINATION AND MODIFICATION.

- 8.1 **Termination.** City may cancel this Agreement at any time and without cause upon written notification to Consultant.

Consultant may cancel this Agreement upon 30 days' written notice to City and shall include in such notice the reasons for cancellation.

In the event of termination, Consultant shall be entitled to compensation for services performed to the effective date of termination; City, however, may condition payment of such compensation upon Consultant delivering to City any or all documents, photographs, computer software, video and audio tapes, and other materials provided to Consultant or prepared by or for Consultant or the City in connection with this Agreement.

- 8.2 Extension.** City may, in its sole and exclusive discretion, extend the end date of this Agreement beyond that provided for in Subsection 1.1. Any such extension shall require a written amendment to this Agreement, as provided for herein. Consultant understands and agrees that, if City grants such an extension, City shall have no obligation to provide Consultant with compensation beyond the maximum amount provided for in this Agreement. Similarly, unless authorized by the Contract Administrator, City shall have no obligation to reimburse Consultant for any otherwise reimbursable expenses incurred during the extension period.
- 8.3 Amendments.** The Parties may amend this Agreement only by a writing signed by all the Parties.
- 8.4 Assignment and Subcontracting.** City and Consultant recognize and agree that this Agreement contemplates personal performance by Consultant and is based upon a determination of Consultant's unique personal competence, experience, and specialized personal knowledge. Moreover, a substantial inducement to City for entering into this Agreement was and is the professional reputation and competence of Consultant. Consultant may not assign this Agreement or any interest therein without the prior written approval of the Contract Administrator. Consultant shall not subcontract any portion of the performance contemplated and provided for herein, other than to the subcontractors noted in the proposal, without prior written approval of the Contract Administrator.
- 8.5 Survival.** All obligations arising prior to the termination of this Agreement and all provisions of this Agreement allocating liability between City and Consultant shall survive the termination of this Agreement.
- 8.6 Options upon Breach by Consultant.** If Consultant materially breaches any of the terms of this Agreement, City's remedies shall include, but are not limited to, the following:
- 8.6.1** Immediately terminate the Agreement;
 - 8.6.2** Retain the plans, specifications, drawings, reports, design documents, and any other work product prepared by Consultant pursuant to this Agreement;
 - 8.6.3** Retain a different consultant to complete the work described in Exhibit A not finished by Consultant; or
 - 8.6.4** Charge Consultant the difference between the cost to complete the work described in Exhibit A that is unfinished at the time of breach and the amount that

City would have paid Consultant pursuant to Section 2 if Consultant had completed the work.

Section 9. KEEPING AND STATUS OF RECORDS.

- 9.1 Records Created as Part of Consultant's Performance.** All reports, data, maps, models, charts, studies, surveys, photographs, memoranda, plans, studies, specifications, records, files, or any other documents or materials, in electronic or any other form, generated, prepared, or otherwise obtained by Consultant, either directly or indirectly, pursuant to this Agreement and that relate to the matters covered hereunder shall be the property of the City. Consultant hereby agrees to deliver this data or those documents to the City upon request in a format agreeable to the City. It is understood and agreed that the documents and other data, including but not limited to those described above, prepared or generated pursuant to this Agreement are prepared or generated specifically for the City and can be shared with third parties at the discretion of the City. Consultant agrees that, unless final approval is granted by City, all data, plans, specifications, reports and other documents are to be kept confidential and will not be released to third parties by Consultant without prior written consent of the City.
- 9.2 Consultant's Books and Records.** Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services or expenditures and disbursements charged to the City under this Agreement for a minimum of 3 years, or for any longer period required by law, from the date of final payment to the Consultant to this Agreement.
- 9.3 Inspection and Audit of Records.** Any records or documents that Subsection 9.2 of this Agreement requires Consultant to maintain shall be made available for inspection, audit, and/or copying at any time during regular business hours, upon oral or written request of the City. Under California Government Code Section 8546.7, if the amount of public funds expended under this Agreement exceeds \$10,000.00, the Agreement shall be subject to the examination and audit of the State Auditor, at the request of City or as part of any audit of the City, for a period of 3 years after final payment under the Agreement.

Section 10. MISCELLANEOUS PROVISIONS.

- 10.1 Attorneys' Fees.** If a party to this Agreement brings any action, including an action for declaratory relief, to enforce or interpret the provision of this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees in addition to any other relief to which that party may be entitled. The court may set such fees in the same action or in a separate action brought for that purpose.
- 10.2 Venue.** In the event that either party brings any action against the other under this Agreement, the Parties agree that trial of such action shall be vested exclusively in the state courts of California in the County of Alameda or in the United States District Court for the Northern District of California.

- 10.3 Severability.** If a court of competent jurisdiction finds or rules that any provision of this Agreement is invalid, void, or unenforceable, the provisions of this Agreement not so adjudged shall remain in full force and effect. The invalidity in whole or in part of any provision of this Agreement shall not void or affect the validity of any other provision of this Agreement.
- 10.4 No Implied Waiver of Breach.** The waiver of any breach of a specific provision of this Agreement does not constitute a waiver of any other breach of that term or any other term of this Agreement.
- 10.5 Successors and Assigns.** The provisions of this Agreement shall inure to the benefit of and shall apply to and bind the successors and assigns of the Parties.
- 10.6 Use of Recycled Products.** Consultant shall prepare and submit all reports, written studies and other printed material on recycled paper to the extent it is available at equal or less cost than virgin paper.
- 10.7 Conflict of Interest.** Consultant may serve other clients, but none whose activities within the corporate limits of City or whose business, regardless of location, would place Consultant in a “conflict of interest,” as that term is defined in the Political Reform Act, codified at California Government Code Section 81000 *et seq.*

Consultant shall not employ any City official in the work performed pursuant to this Agreement. No officer or employee of City shall have any financial interest in this Agreement that would violate California Government Code Section 1090 *et seq.*

Consultant hereby warrants that it is not now, nor has it been in the previous 12 months, an employee, agent, appointee, or official of the City. If Consultant was an employee, agent, appointee, or official of the City in the previous 12 months, Consultant warrants that it did not participate in any manner in the forming of this Agreement. Consultant understands that, if this Agreement is made in violation of California Government Code Section 1090 *et seq.*, the entire Agreement is void and Consultant will not be entitled to any compensation for services performed pursuant to this Agreement, including reimbursement of expenses, and Consultant will be required to reimburse the City for any sums paid to the Consultant. Consultant understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of California Government Code Section 1090 *et seq.*, and, if applicable, will be disqualified from holding public office in the State of California.

At City’s sole discretion, Consultant may be required to file with the City a Form 700 to identify and document Consultant’s economic interests, as defined and regulated by the California Fair Political Practices Commission. If Consultant is required to file a Form 700, Consultant is hereby advised to contact the San Leandro City Clerk for the Form 700 and directions on how to prepare it.

- 10.8 Solicitation.** Consultant agrees not to solicit business at any meeting, focus group, or interview related to this Agreement, either orally or through any written materials.
- 10.9 Contract Administration.** This Agreement shall be administered by Anton Batalla ("Contract Administrator"). All correspondence shall be directed to or through the Contract Administrator or his or her designee.
- 10.10 Notices.** Any written notice to Consultant shall be sent to:

Any written notice to City shall be sent to:

San Leandro Public Library
c/o Bill Sherwood
300 Estudillo Avenue
San Leandro, CA 94577
bsherwood@sanleandro.org

With a copy to:

City of San Leandro
Department of Finance
c/o Purchasing Agent
835 East 14th Street
San Leandro, CA 94577

10.11 SECTION RESERVED.

- 10.12 Integration.** This Agreement, including the scope of work attached hereto and incorporated herein as Exhibits A, B, and C represents the entire and integrated agreement between City and Consultant and supersedes all prior negotiations, representations, or agreements, either written or oral.

<u>Exhibit A</u>	Scope of Services
<u>Exhibit B</u>	Compensation Schedule, Reimbursable Expenses, & Project Costs
<u>Exhibit C</u>	Indemnification

- 10.13 Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one agreement.

- 10.14 Certification per Iran Contracting Act of 2010.** In the event that this contract is for one million dollars (\$1,000,000.00) or more, by Consultant's signature below Consultant certifies that Consultant, and any parent entities, subsidiaries, successors or subunits of Consultant are not identified on a list created pursuant to subdivision (b) of Section 2203 of the California Public Contract Code as a person engaging in investment activities in Iran as described in subdivision (a) of Section 2202.5, or as a person described in subdivision (b) of Section 2202.5 of the California Public Contract Code, as applicable.

10.15 Piggybacking Agreement Vendor agrees to extend the negotiated pricing, terms and conditions of this agreement to other government agencies. By executing this agreement, the Vendor will allow other agencies to enter into a contract with the Vendor for the purchase of the service and solutions described herein, based on the terms, conditions, and prices offered by the Vendor and agreed to by the City of San Leandro; however, each agency must evaluate the specific contract documents to determine if the competitive process and contract awarded allows piggybacking and meets that agency's rules and regulations for contracting.

SIGNATURES ON FOLLOWING PAGE

The Parties have executed this Agreement as of the Effective Date. The persons whose signatures appear below certify that they are authorized to sign on behalf of the respective Party.

CITY OF SAN LEANDRO

[NAME OF CONSULTANT]

Jeff Kay, City Manager

[NAME, TITLE]

Attest:

Consultant's DIR Registration Number
(if applicable)

Leticia I. Miguel, City Clerk

Approved as to Fiscal Authority:

Elizabeth Warmerdam, Interim Finance Director

Account Numbers:
688-13-121-7410 (\$258,491.04)
San Leandro Public Library Foundation (\$52,000)
150-68-012-7410 (\$48,000)

Approved as to Form:

Richard D. Pio Roda, City Attorney

Per Section 10.7:
X Form 700 Not Required
 Form 700 Required

Theresa Mallon, Library Director

EXHIBIT A

SCOPE OF SERVICES

RFID Conversion Service

Invengo Technology Corp will completely project manage the outsourced staffing, equipment, and supplies necessary to convert the San Leandro Public Library's existing collection at its 4 (four) locations from EM security strips to RFID tags. The Invengo Technology Corp's Project Manager will manage the conversion project. Invengo Technology Corp will provide the following equipment and supplies:

RFID Tags

- 330,000 RFID Book Tags
- 57,000 RFID AV Tags
- 50 RFID "Other" Tags for equipment

Mobile Retrospective Encoders

- 4 (four) Mobile Retrospective Encoders rented during the 3-month conversion process.

Invengo Technology Corp will manage all aspects of the outsourced staffing for the RFID conversion service, including hiring, training, scheduling (in coordination with Library staff), supervising, and quality control of the work product. The San Leandro Public Library will provide the Invengo Technology Corp's Project Manager with a pre-tagging checklist and an item file to load onto the Mobile Retrospective Encoders ready for the conversion. The FE Technologies's RFID Conversion Project Manager will provide the San Leandro Public Library a tagging and conversion plan covering the 4 (four) library facilities including the hours, days, and dates when the conversation will occur at least 60 days prior to the start of the conversion process. The conversion plan will include weekly quality control checks on the conversion work product. The tagging and conversion process will require up to 90 days.

Hardware Specifications

The Invengo Technology Corp Installation Team (i.e., Technical Support Officers) is responsible for installing and commissioning the RFID equipment on site.

Staff Workstations, "Circulation Assistants"

- All Circulation Assistants will be the "Shielded Standard Kit", a high-powered, shielded device for multiple item processing in as small area at either Circulation/Service Desks or at a Technical Services/Circulation Staff Workstation.
 - Main Library
 - 2 (two) at the Main Library Circulation Desk
 - 6 (six) at the Main Library, various Technical Processing locations
 - Manor Branch Library

- 2 (two) at the Manor Branch Library Customer Service Desk
- Mulford-Marina Branch Library
 - 1 (one) at the Mulford-Marina Branch Library Service Desk
- South Branch Library
 - 1 (one) at the South Branch Library Service Desk

“Designer Clear” Security Gates

- Main Library – 2 (two) Security Gates.
- Manor Branch Library – 2 (two) Security Gates.

V5 Self Check Machines

- All Machines, with the exception of the “Children’s Height” Pedestal that will be located in the Children’s Library at the Main Library:
 - Halo color will be green to indicate available. The LED at the top of the unit will turn red to indicate the unit is offline and needs repair/service.
- Pedestal machines
 - Main Library – 1 (one) V5 with “Children’s Height” Pedestal and the halo surrounding the touchscreen wrapped with a children’s themed, industrial-grade vinyl “skin” configured for checkout only.
 - Manor Branch – 1 (one) V5 “Self-Loan Stations” configured for checkout and check in with adjacent carts/totes for returns.
 - Mulford Branch – 1 (one) V5 “Self-Loan Stations” configured for checkout and check in with adjacent carts/totes for returns.
 - South Branch – 1 (one) V5 “Self-Loan Stations” configured for checkout and check in with adjacent carts/totes for returns.
- Adjustable pedestal machines
 - Manor Branch – 1 (one) V5 “Self-Loan Stations” configured for checkout and check in with adjacent carts/totes for returns.
- Desktop machines
 - Main Library – 4 (four) V5 machines configured for checkout only.

24/7 Return Chute, V2

- All Machines
 - Configured for email receipts only.
- Main Library – 2 (two) 24/7 Return Chutes, V2
- Manor Branch – 2 (two) 24/7 Return Chutes, V2

Internal Return Chute

- Main Library – 1 (one) Internal Return Chute

Spring-Loaded Returns Bin

- Main Library – 1 (one) Spring-Loaded Returns Bin

Live Scanning Wand

- Main Library – 2 (two) Live Scanning Wands
- Manor Branch – 1 (one) Live Scanning Wand
- Mulford Branch – 1 (one) Live Scanning Wand
- South Branch – 1 (one) Live Scanning Wand

Software Specifications

Application Software

The Invengo Technology Corp Installation Team (i.e., Technical Support Officers) is responsible for installing and commissioning the RFID equipment on site. The installer is responsible for the software installation and integration with San Leandro Public Library's ILS, SirsiDynix's Symphony utilizing SIP2 including the following:

- All software described in *FE Technologies Response to RFP RFID and AMH Project No. 57780, A-2, Page PF 22*: "All the RFID equipment proposed comes with its own specially designed software" to incorporate all hardware (detection systems, staff station readers, patron self-check stations, portable handheld readers), RFID tags, and any other RFID-related hardware into the system.
- Circulation Assistant Software
 - Sufficient licenses to cover all appropriate hardware described in the "Hardware Specifications" section above.
- Sort Assistant Software
 - Sufficient licenses to cover all appropriate hardware described in the "Hardware Specifications" section above.
- The Management Console software used to configure the RFID equipment, including:
 - Management Console Reports
 - Library Live Reports
 - Sufficient licenses to cover all appropriate hardware described in the "Hardware Specifications" section above.
- Mobile Scanning Unit Software
 - Sufficient licenses to cover the 5 Live Scanning Wands described in the "Hardware Specifications" section above.
- Internal Return Chute Software
 - Sufficient licenses to cover the caching software that instantly and automatically checks in items as they are returned using the Internal Return Chute at the Main Library.

RFID Tag Encoding Software.

- Invengo Technology Corp will supply its RFID Tag Encoding software to vendors which provide material, print and audio visual, to the San Leandro Public Library for the purpose of allowing these companies to present new books to San Leandro Public Library with encoded (and printed if required) RFID tags.

Additional Software Add-Ons, Integration

- All software described in *FE Technologies Response to RFP RFID and AMH Project No. 57780*, P-1, Page PF 76 including:
 - The Invengo Technology Corp Patron Mobile Checkout App that allows patrons to checkout items using their own mobile phone and can be integrated with the Library's own app. Invengo Technology Corp will make the API available to any 3rd party vendor of any app.
 - The Invengo Technology Corp Librarian Rover Mobile Checkout App that allows library staff to check in or out items from anywhere in the library using an RFID-enabled Smart Phone.

All software will be tested by Invengo Technology Corp's Software Installers with Invengo Technology Corp's own ILS response testing software to ensure each ILS message is translated appropriately by the software. Hardware is delivered and installed by Invengo Technology Corp's Installation Team, which includes RFID experts, familiar with RFID-specific exclusion zones and placement guidelines, and qualified electricians. Software is tested by Invengo Technology Corp's Software Installers with FE Technologies' own ILS response testing software to ensure each ILS message is translated appropriately by the software.

Installation

Invengo Technology Corp will perform all installation and testing work related to the RFID equipment, and all maintenance and support work ongoing. The Invengo Technology Corp Project Manager/Installer will conduct a site audit of all San Leandro Library facilities: the Main Library, the Manor Branch, the Mulford Branch, and the South Branch. The Invengo Technology Corp Project Manager will identify and document any installation issues and special requirements for the Invengo Technology Corp Installation team, including Hardware and Software installers. The Invengo Technology Corp Project Manager will complete all pre-Installation paperwork and checklists to document and ensure that the necessary IT configuration is conducted and that power and data points are adequate and tested at all San Leandro Library facilities.

Invengo Technology Corp will conduct the delivery and installation of the RFID equipment. Hardware will be delivered, installed, tested, and commissioned by the Invengo Technology Corp Installation Team, which includes RFID experts and qualified electricians who are familiar with RFID-specific exclusion zones and placement guidelines. Invengo Technology Corp will manage all delivery logistics including delivering and placing all RFID equipment right into installation sites: the Main Library, the Manor Branch, the Mulford Branch, and the South Branch.

The Invengo Technology Corp Installation Team will be responsible for the software installation and integration via SIP2 with the San Leandro Public Library's ILS: SirsiDynix's Symphony.

The Invengo Technology Corp Software Installers will test all software with their own ILS response testing software to ensure each ILS message is translated appropriately by the software.

Invengo Technology Corp will also provide the following services during the installation process:

- Pre-Install Testing Demo Self Loan Station
 - A self-loan station will be set up in the Main Library a month before the go live date. This allows the San Leandro Library to test all the different permutations in an attempt to find any weaknesses of the system and business processes. It also allows the SIP2 to be set up ahead of time and also to ensure any ‘unfriendly’ message from the ILS can either be corrected at the ILS or on the translation tables on the self-loan station.
- Placing a Software Support Person on standby on Go Live Date
 - In the event of there being any last minute changes that were missed during the testing period Invengo Technology Corp will place a software support team member either onsite or on standby remotely (with remote access to all equipment) that allows Invengo Technology Corp to make any changes as fast as possible to ensure the go live is a good experience.

Training

Training on the hardware and software will be conducted before the San Leandro Library goes live and after the equipment has been installed with relevant staff at the library, aimed at maximizing usage of the equipment, reducing staff “touches” of items, ensuring staff and public safety, and coaching staff on how to encourage patron use of the system.

The training will be conducted after hardware installation, on “live” equipment to give staff a real understanding of the functions of each product. Training will be hands-on with staff given the opportunity to use all equipment and try all different functions including:

- Self Loan Station – This session covers the steps that patrons take to conduct a transaction, and includes a run-through of all available transactions, error messages, receipt options, payment options (if applicable) and DVD unlocking method. This session also covers the administration functions of the Self Loan Station which are accessed via a staff administrator’s card, and includes encoding tags, tag info viewer, machine restart/shutdown, receipt paper changing and reprint receipt. A troubleshooting session is included and this covers when and how to lodge a Work Ticket for support/assistance from Invengo Technology Corp.
- Circulation Assistant – This session covers all the functions of the Circulation Assistant – multiple item check in and check out, exception handling, how to synchronize the application, encoding tags, checking tags, pinning or hiding the application and troubleshooting.
- Security Gates – An explanation of how the security gates work, emphasizing their effectiveness and the fact that the Invengo Technology Corp system does not produce “false alarms” in order to give confidence to staff that when the alarm sounds, it is always

because an item has been removed that has not first been checked out. This session covers the data logger and how to view items that have alarmed the gates, along with people counter functionality and a brief overview of the people counter reports.

- Mobile Scanning Unit – A look at all the functions of the Mobile Scanning unit including how to perform an inventory, how to import and export inventory files and other lists for searching, how to find items, how to create searchable lists, and the most ergonomic and safe way to scan items wherever they are situated in the stacks.

The Invengo Technology Corp trainer will conduct staff training sessions for staff in group sizes convenient to the library, ensuring that staff coverage is sufficient in other areas of the library at all times.

Detailed, easy to follow training manuals will be provided for each product. The manuals are free, and are downloadable in PDF format via the Invengo Technology Corp UserGroup Website. They contain informative and instructive diagrams, screenshots and photos, and are designed so that staff can refer back to items if and when required when working with the new equipment.

Invengo Technology Corp will provide Technical Training specifically designated for the Information Technology Division staff. Invengo Technology Corp will also provide Technical Training on the Management console, intended for staff from both the Library and Information Technology Division who will act as system administrations, to include the following topics:

- User access levels
- Dashboard and monitoring the status of the equipment
- Designing groups of equipment, branches, etc.
- Configuration – changing the GUI, changing the workflows (transactions steps), changing advertisement screens, changing the SIP2 translations, individual product configuration, data and encoding standards, etc.
- Reporting – how to produce reports, the different reports available, how to configure a reporting timeframe.
- Troubleshooting, including when and how to lodge a Work Ticket for Invengo Technology Corp Support.

A Training Survey is distributed to all participants in both training sessions at the end which is a quality assurance check and will be used to identify any gaps or issues with the training described above and to fill in any gaps in training for San Leandro Library staff and the City of San Leandro IT staff with additional training.

Service & Support

San Leandro Public Library shall be able to request service using a toll-free number and a web-based customer service portal provided by Invengo Technology Corp. Work Tickets are logged and are allocated a level of urgency. Work Tickets will be acknowledged within 1 (one) hour of logging. A Technical Support Officer (TSO) will either acknowledge an online ticket in the ticket itself or will telephone the Library directly. If a machine is experiencing downtime, it will be escalated to the top tier of urgency.

Following the acknowledgement of a logged issue ticket, the Technical Support Team will then have 8 (eight) business hours, from 0900 to 1700 PST, seven days a week, to analyze the issue and attempt to resolve it. If the problem cannot be resolved by telephone, the Technical Support Officer will access the equipment via a remote access program, 'GoToAssist' or a City of San Leandro approved method. If the problem has been classified as involving downtime to a machine Invengo Technology Corp's Technical Support Team will remote into the machine within 4 (four) hours of the problem being logged. Otherwise, Invengo Technology Corp's Technical Support Team will remote in within 8 hours of the problem being logged.

If the Technical Support Team determines that the problem is hardware related, Invengo Technology Corp will arrange for the parts to be delivered to the Library ASAP by a delivery service or by Invengo Technology Corp's support partner Fujitsu in the instance of a part swap-out required with an onsite visit. If a technician is required to install the part, an Invengo Technology Corp Technician will be onsite within 8 (eight) working hours, from 0900 to 1700 PST, seven days a week, from the determination that an onsite visit is required and the part is available through Invengo Technology Corp's support partner Fujitsu OR within 8 working hours, from 0900 to 1700 PST, seven days a week, from the determination that an onsite visit is required and the Library acknowledging that the part(s) have been received via a delivery service from Invengo Technology Corp.

Problems that are not resolved within the timeframes described above will be escalated to the Support Manager for resolution.

The cost of support is included in Invengo Technology Corp's Warranty and Support Agreement and is free of charge for the first year. Weekend onsite support is charged at an additional 40% of the quoted Extended Warranty.

- Web Support:
 - The City of San Leandro will have access to Invengo Technology Corp's Service Portal including access to:
 - Tiered access to lodge work tickets instantly. Administrator level has access to all Work Tickets for all branches; standard access gives library staff access to their branch only.
 - Ability to classify severity of problem (experiencing downtime, for example).
 - Ability to upload files, screenshots, reports, images etc.
 - Knowledge-base – online access to User Guides, issue resolution tips and guidelines, common issues, etc.
- Authorized Service Technicians
 - In the instance of a part swap-out required with an onsite visit, Invengo Technology Corp's support partner Fujitsu will attend the site. Fujitsu has many offices close to San Leandro:

City	State	Postal_Code
Suisun City	CA	94585
San Jose	CA	95128
Castro Valley	CA	94546
Santa Cruz	CA	95065
Rio Linda	CA	95673
Danville	CA	94526

- Invengo Technology Corp’s support partner Fujitsu has several staff dedicated to working with Invengo Technology Corp customers in the region. Hot swappable spares are kept with Fujitsu to ensure immediate availability of vital parts.
- Invengo Technology Corp will measure and monitor Fujitsu’s performance against their Service Level Agreement (SLA) and ensure that the response times described above are adhered to by Fujitsu.

Warranty and Support Agreement

- Introduction
 - Invengo Technology Corp provides a comprehensive warranty against defects in materials and workmanship for all Invengo Technology Corp Library RFID equipment and software. Should any equipment or software supplied as part of the Library RFID system develop a fault, Invengo Technology Corp or its contracted field service agent/s will repair or replace the equipment or software via remote access or onsite visit. The warranty covers only those defects that arise during the normal use of the equipment or software. It does not cover the misuse, deliberately or otherwise of the equipment, or unauthorized modification of the hardware or software.
- Definition
 - The term “technician” refers to an Invengo Technology Corp Technical Support Officer or third party agent.
- Warranty Commencement Date
 - The commencement of the warranty period is no more than 120 days after delivery to the installation site. The standard warranty period is 12 months from the commencement date. There is no cost for the standard warranty.
- Extended Warranty
 - Extended warranty for the equipment is available for a period of 4 years following the standard warranty period (total warranty period being 5 years). The City of San Leandro’s acceptance of the Extended Warranty is automatic upon the signing of this contract. Cancellation of the Extended Warranty can be requested in writing to Invengo Technology Corp in the month prior to the warranty anniversary. Requests for cancellations part way through the annual warranty period will not be refunded. At the conclusion of the extended warranty period, the contract will be automatically rolled over into an annual warranty contract subject to an annual

price and terms negotiated between the City of San Leandro and Invengo Technology Corp. The terms and price of this negotiation will be agreed upon at a minimum of sixty days prior to end of the extended warranty period. If the City of San Leandro and Invengo Technology Corp cannot reach an agreement on the annual price and terms of the annual contract, then either party may cancel the annual warranty contract effective at the end of the extended warranty period.

- Non-Warranty Support
 - At the expiration of the extended warranty period where further agreement is not entered into, request for support will be charged at the current Invengo Technology Corp's Time and Materials rate.
- Costs
 - The Extended Warranty will be invoiced, in advance, annually for the duration of the agreement. The annual cost of the extended warranty will be as described in Exhibit B, Compensation Schedule & Project Costs of this agreement. The initial invoice for the Extended Warranty will be issued 1 month prior to the 12-month anniversary of the warranty commencement date and due on the anniversary of the commencement date. Subsequent invoices will be issued on an annual basis, 1 month prior to the anniversary of the warranty commencement date and due on the anniversary of the commencement date.
- Software Warranty
 - Invengo Technology Corp's development cycle is based on Agile Systems – it is a continuous cycle of improvement that relies on customer feedback and ideas, as well as quality assurance testing in the lab and onsite. Invengo Technology Corp performs monthly “sprints” which included software improvements and Invengo Technology Corp release a new software version every 10-12 weeks, which is provided to all customers on the Warranty and Support Agreement free of charge. Version releases may contain a combination of new features, new products, bug fixes and enhancements. The release notes are published via Invengo Technology Corp's Usergroup Website and are also available free of charge directly from Invengo Technology Corp. The San Leandro Library may choose to upgrade to a new version release at any stage. Upgrades are not compulsory, and Invengo Technology Corp supports all software version releases for a period of at least 2 years. Invengo Technology Corp will perform this work.
- RFID Tags
 - The tags are guaranteed for the life of the item on which they are affixed.

EXHIBIT B

COMPENSATION SCHEDULE, REIMBURSABLE EXPENSES, & PROJECT COSTS

COMPENSATION SCHEDULE

1. Initial 50% of the total net price of the contract is due and payable 30 days after the equipment order is placed.
2. Final 50% of the total net price of the contract is due and payable 30 days after the San Leandro Public Library has signed off on the successful launch of the entire system.

RFID CONVERSION SERVICE, HARDWARE, SOFTWARE, INSTALLATION, TRAINING, AND SERVICE

Number	Description	Quantities	Price Per Unit	Total	Notes
1	RFID Book Tag	330,000	\$0.108	\$35,640.00	
2	RFID AV Tag	57,000	\$0.52	\$29,640.00	
3	RFID, other tags	50	\$20.00	\$1,000.00	Equipment
4	Staff Workstations, Circulation Desks	2	\$516.00	\$1,032.00	2 at the Main Library Circulation Desk
5	Staff Workstations, Circulation Desks	2	\$516.00	\$1,032.00	2 at the Manor Branch Library Customer Service Desk
6	Staff Workstations, Circulation Desks	1	\$516.00	\$516.00	1 at the Mulford-Marina Branch Library Service Desk
7	Staff Workstations, Circulation Desks	1	\$516.00	\$516.00	1 at the South Branch Library Service Desk
8	Staff Workstations, Technical Services	6	\$516.00	\$3,096.00	6 at the Main Library, various Technical Processing locations
9	Staff Workstations, Technical Services	2	\$516.00	\$1,032.00	2 at the Manor Branch Library, various Technical Processing locations
10	Security Gates	2	\$4,827.00	\$9,654.00	2 at the Main Library
11	Security Gates	2	\$4,827.00	\$9,654.00	2 at the Manor Library

12	RFID Self-Check Kiosk, with adjustable pedestal	1	\$7,632.00	\$7,632.00	1 at the Manor Branch
13	RFID Self-Check Kiosk	1	\$4,505.00	\$4,505.00	1 at the Manor Branch
14	RFID Self-Check Kiosk	1	\$4,505.00	\$4,505.00	1 at the Mulford-Marina Branch
15	RFID Self-Check Kiosk	1	\$4,505.00	\$4,505.00	1 at the South Branch
16	RFID Self-Check Kiosk with Children's Height Pedestal	1	\$5,131.00	\$5,131.00	1 at the Main Library
17	RFID Self-Check, Desktop/Countertop	4	\$4,505.00	\$18,020.00	4 at the Main Library
18	24/7 Return Chute, V2	2	\$5,837.00	\$11,674.00	2 at the Main Library configured for email receipts only.
19	24/7 Return Chute, V2	2	\$5,837.00	\$11,674.00	2 at the Manor Branch Library configured for email receipts only.
20	Internal Return Chute	1	\$1,597.00	\$1,597.00	1 at the Main Library.
21	Spring-Loaded Returns Bin	1	\$1,368.00	\$1,368.00	1 at the Main Library.
22	Live Scanning Wand	5	\$3,126.00	\$15,630.00	2 at the Main Library; 1 at each of the branch libraries.
23	Application Software	Lump sum	\$0.00	Included	See A-2 of proposal (Page PF: 22)
24	Additional software add-ons, integration	Lump sum	\$0.00	Included	See P-1 of proposal (Page PF: 76)
25	Mobile Retrospective Encoders	0	\$600.00	\$0.00	Price includes the hire of 4 retrospective trolleys for 3 months. The job should take between 2.2-2.5 months. Price also includes 66 boxes of ribbons to print the library logo and the existing book title and barcode on the tags
		0	\$45.00	\$0.00	
26	Conversion staffing	387000	\$0.30	\$116,100.00	See Item-12 of the proposal (Page PF:25)
27	Project Management	Lump sum		included	See II. Of the proposal (Page PF: 7)
28	Packaging & Shipping	Lump sum		\$12,940.00	

29	Installation (onsite)	Lump sum		\$8,190.00	See M-1 & M-2 of the proposal (Page PF: 34)
30	Staff Training (onsite during installation visit)	Lump sum		\$1,474.00	See L-1 through L-6 of the proposal (Page PF: 33)
31	Taxes			\$40,734.04	Add 9.750% tax as applicable
Total price net				\$358,491.04	

YEARLY SUPPORT AND MAINTENANCE SERVICES FOR UP TO FIVE (5) YEARS AFTER EXPIRATION OF INITIAL CONTRACT, OR WARRANTY PERIOD(S), OR BOTH

Year	Description of Support and Maintenance	Price
1	Software, Hardware including onsite hardware replacements, Software upgrades	0
2	Software, Hardware including onsite hardware replacements, Software upgrades	\$26,234.00
3	Software, Hardware including onsite hardware replacements, Software upgrades	\$26,234.00

4	Software, Hardware including onsite hardware replacements, Software upgrades	\$26,234.00
5	Software, Hardware including onsite hardware replacements, Software upgrades	\$26,234.00

EXHIBIT C

INDEMNIFICATION

Consultant shall indemnify, defend with counsel acceptable to City, and hold harmless City and its officers, elected officials, employees, agents and volunteers from and against any and all liability, loss, damage, claims, expenses, and costs (including without limitation, attorney's fees and costs and fees of litigation) (collectively, "Liability") of every nature arising out of or in connection with Consultant's performance of the services called for or its failure to comply with any of its obligations contained in this Agreement, except such Liability caused by the active negligence or willful misconduct of City.

Notwithstanding the forgoing, to the extent this Agreement is a "construction contract" as defined by California Civil Code Section 2782, as may be amended from time to time, such duties of Consultant to indemnify shall not apply when to do so would be prohibited by California Civil Code Section 2782.

The Consultant's obligation to defend and indemnify shall not be excused because of the Consultant's inability to evaluate Liability or because the Consultant evaluates Liability and determines that the Consultant is not liable to the claimant. The Consultant must respond within 30 days to the tender of any claim for defense and indemnity by the City. If the Consultant fails to accept or reject a tender of defense and indemnity within 30 days, in addition to any other remedy authorized by law, so much of the money due the Consultant under and by virtue of this Agreement as shall reasonably be considered necessary by the City, may be retained by the City until disposition has been made of the claim or suit for damages, or until the Consultant accepts or rejects the tender of defense, whichever occurs first.

