

REQUEST FOR PROPOSALS

FIRE STATION ALERTING SYSTEM

RFP # 269-2009-120



**CITY OF CHARLOTTE,
NORTH CAROLINA**

NOVEMBER 7, 2008

REQUEST FOR PROPOSALS
RFP # 269-2009-120
Fire Station Alerting System

NOVEMBER 7, 2008

Dear Service Provider:

The City of Charlotte, located in the State of North Carolina, is now accepting Proposals for Fire Station Alerting System. The requirements for submitting a Proposal are stated in the attached Request for Proposals (the "RFP"). Please review them carefully.

All Proposals are due to the Business Support Services, Procurement Services Division, 9th Floor, CMGC 600 East Fourth Street, Charlotte, North Carolina 28202, no later than **DECEMBER 19, 2008 at 2:00 p.m.**

One (1) electronic copy of the Proposal on a CD and one (1) unbound original Proposal signed in ink by a company official authorized to make a legal and binding offer along with the corporate seal, plus Six (6) copies of your Proposal must be submitted in a sealed box or opaque envelope plainly marked with the Proposal number and service description as follows:

Request for Proposals
Attention: Billy Belcher
Name of Company Submitting Proposal
Fire Station Alerting System
RFP # 269-2009-120

An electronic copy of the RFP in Microsoft Word format may be obtained by contacting Billy Belcher at bbelcher@ci.charlotte.nc.us

RFP questions must be directed to Billy Belcher, Business Support Services, Procurement Services Division, per the enclosed instructions in **Section 2.3**. The City is an equal opportunity purchaser.

Sincerely,

Kay Elmore
Procurement Services Division Manager

cc: Ranjit Raju
RFP file

FIRE-Director of IT

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Section 1

Introduction and General Information

1. INTRODUCTION.

1.1. Objective.

The objective of this RFP is to solicit Proposals that will enable the City to determine which Service Provider and Proposed Solution will best meet the City's needs.

1.2. Definitions.

As used in this RFP, the following terms shall have the meanings set forth below:

<i>Acceptance</i>	Refers to receipt and approval by the City of a Product or Service in accordance with the acceptance process and criteria set forth in the Agreement.
<i>Affiliates:</i>	Refers to all departments or units of the City and all other governmental units, towns, boards, committees or municipalities for which the City processes data or performs Services that involve the System.
<i>Agreement/Contract:</i>	Agreement and Contract are used interchangeably and refers to a contract executed by the City and Service Provider for all or part of the Services covered by this RFP.
<i>Alarm Recovery:</i>	Refers to the process by which incidents are manually entered into the System after a period when the System was unavailable for any reason
<i>City:</i>	Refers to the City of Charlotte, North Carolina.
<i>City Project Manager:</i>	Refers to a specified City employee representing the best interests of the City for this Project.
<i>Company:</i>	Refers to a Service Provider that has been selected by the City to provide the Services required by this RFP.
<i>Company Project Manager:</i>	Refers to a specified Company employee representing the best interests of the Company for this Project.
<i>Company Software:</i>	Refers to mean all pre-existing software owned by the Service Provider or any of its "Related Entities" which the Service Provider provides or is required to provide under this RFP, and all Updates and Enhancements to the foregoing. The term "Related Entity" shall mean any person or entity that is directly or indirectly in control of, controlled by, or under common control with the Service Provider, including but not limited to, parent, subsidiary, and affiliate entities. The word, "control," as used in this context, shall mean ownership of a sufficient percentage (not necessarily a majority) of the outstanding voting interests in an entity so as to afford effective control of the management of the entity.
<i>Current Release:</i>	Refers to the latest version of the Software offered for general commercial distribution at a given point in time, including all Updates.
<i>Customizations:</i>	Refers to all newly-developed software created by the Service Provider and/or its subcontractors pursuant to this RFP, including but not limited to all interfaces between different components of the System and between the System and other systems. Customizations will not include Updates and Enhancements that become part of the company Software.

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<i>Defect:</i>	Refers to any failure of the System or any component thereof to fully conform to the Specifications and Requirements. A non-conformity is not a Defect if it results directly from the City's improper use or damage, unless it is reasonably likely that such non-conformity would have occurred on that or another occasion even without the City's improper use or damage.
<i>Deliverables:</i>	Refers to all tasks, reports, information, designs, plans and other items, which the Company is required to complete and deliver to the City in connection with this Agreement.
<i>Documentation:</i>	Refers to all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the System or any component thereof, and which are published or provided to the City by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the System.
<i>Enhancements:</i>	Refers to any products, parts of products, improvements, additions or materials which are not included in the Products at the time of execution of an Agreement or that are subsequently developed, which modify the Products to provide a function or feature not originally offered or an improvement in function.
<i>Evaluation Committee:</i>	Refers to a committee, as appointed by the City, responsible for determining the best Service Provider for the Services described in this RFP.
<i>Event:</i>	Refers to a non-emergency call for service.
<i>Geofile:</i>	Refers to geographic database with all of its layers (Centerline, hydrants, street closures, etc.).
<i>Hardware:</i>	Refers to all hardware, equipment and materials which the Company actually provides or is required to provide under the terms of this RFP (whether now or in the future).
<i>Incident:</i>	Refers to an emergency call for service.
<i>License:</i>	Refers to the license agreement.
<i>Maintenance Services:</i>	Refers to the maintenance services.
<i>Milestones:</i>	Refers to the benchmarks of performance (consisting of an identified deadline for the completion of specific services and/or the acceptance of identified Deliverables), as specified in this RFP.
<i>Project:</i>	Refers to the procurement process to choose a Service Provider to perform Fire Station Alerting System for the City.
<i>Project Plan:</i>	Refers to the detailed plan for implementation of the System as described in Section 3 , in the form accepted in writing by the City in accordance with the terms of this RFP and resultant Agreement.
<i>Products:</i>	Refers to all Software and all Hardware (both as herein defined).

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<i>Proposal:</i>	Refers to the Proposal submitted by a Service Provider for the Services as outlined in this RFP.
<i>Seamless Integration:</i>	Refers to the real-time, two-way integration between City systems.
<i>Services:</i>	Refers to the Fire Station Alerting System as requested in this RFP.
<i>Service Provider:</i>	Refers to a company that has interest in providing the Services required by this RFP.
<i>Software:</i>	Refers to (i) all Company Software; (ii) all Customizations; (iii) all Third Party Software; and (iv) all Updates and Enhancements of any of the foregoing.
<i>Source Code:</i>	Refers to the human readable form of a computer program and all algorithms, flow charts, logic diagrams, structure descriptions or diagrams, data format or layout descriptions, pseudo-code, code listings (including comments), and other technical documentation relating to such program.
<i>Specifications and Requirements:</i>	Refers to all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Products or System which are set forth or referenced in: (i) this RFP; (ii) the Documentation; and (iii) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Products or the System.
<i>Split Street:</i>	Refers to a street that looks passable on a map, but is impassable for any reason. Split Streets affect routing of Fire vehicles to an incident location.
<i>System:</i>	Refers to a Fire Station Alerting System to be designed, supplied, installed, configured, tested and commissioned by the Service Provider under this RFP, including but not limited to all Products.
<i>System Acceptance:</i>	The term "System Acceptance" shall mean acceptance by the City of the complete System to be provided.
<i>Third Party Software:</i>	Refers to all software included within the System or required for the System to function in full compliance with the Specifications and Requirements that is provided by the Service Provider as a result of this RFP and was not manufactured, developed or otherwise created by the Service Provider, any Related Entity of the Service Provider, or any of the Service Provider's subcontractors. The phrase "Related Entity" shall mean any person or entity that is directly or indirectly in control of, controlled by, or under common control with the Service Provider, including but not limited to any parent, subsidiary, and affiliate entities. The word, "control," as used in this context, shall mean ownership of a sufficient percentage (not necessarily a majority) of the outstanding voting interests in an entity so as to afford effective control of the management of the entity.

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<i>Updates:</i>	Refers to program logic changes made by Service Provider or its subcontractors or vendors to correct Defects in the Products and/or related Documentation delivered hereunder.
<i>Warranty Period:</i>	Refers to the twelve-month period following System Acceptance.
<i>Workaround:</i>	Refers to a reasonable change in the procedures followed or data supplied to avoid a Defect that does not impair the performance of the System or increase the cost of using the System.
<i>Work Product:</i>	Refers to the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Service Provider in connection with this RFP, and all partial, intermediate or preliminary versions of any of the foregoing.
<i>X/Y Coordinate:</i>	Refers to a geographic location expressed in terms of latitude and longitude.

1.3. Accuracy of RFP and Related Documents.

The City assumes no responsibility for conclusions or interpretations derived from the information presented in this RFP, or otherwise distributed or made available during this procurement process. In addition, the City will not be bound by or be responsible for any explanation, interpretation or conclusions of this RFP or any documents provided by the City other than those provided by the City through the issuance of addenda. In no event may a Service Provider rely on any oral statement by the City or its agents, advisors or consultants.

Should a Service Provider find discrepancies or omissions in this RFP or any other documents provided by the City, the Service Provider should immediately notify the City of such potential discrepancy in writing, and a written addendum may be issued if the City determines clarification necessary. Each Service Provider requesting an interpretation will be responsible for delivering such requests to the City's designated representative as directed in **Section 2** of this RFP.

1.4. City's Rights and Options.

The City reserves the following rights, which may be exercised at the City's sole discretion:

- 1.4.1. To supplement, amend, substitute or otherwise modify this RFP at any time;
- 1.4.2. To cancel this RFP with or without the substitution of another RFP;
- 1.4.3. To take any action affecting this RFP, this RFP process, or the Services or facilities subject to this RFP that would be in the best interests of the City;
- 1.4.4. To issue additional requests for information;
- 1.4.5. To require one or more Service Providers to supplement, clarify or provide additional information in order for the City to evaluate the Proposals submitted;
- 1.4.6. To conduct investigations with respect to the qualifications and experience of each Service Provider;
- 1.4.7. To waive any defect or irregularity in any Proposal received;
- 1.4.8. To reject any or all Proposals;
- 1.4.9. To share the Proposals with City employees other than the Evaluation Committee or City advisory committees as deemed necessary;

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- 1.4.10. To award all, none, or any part of the Services that is in the best interest of the City, with one or more of the Service Providers responding, which may be done without or without re-solicitation.
- 1.4.11. To discuss and negotiate with selected Service Provider(s) any terms and conditions in the Proposals including but not limited to financial terms; and
- 1.4.12. To enter into any agreement deemed by the City to be in the best interest of the City, with one or more of the Service Providers responding.

1.5. Expense of Submittal Preparation.

The City accepts no liability for the costs and expenses incurred by the Service Providers in responding to this RFP, in preparing responses for clarification, in attendance at interviews, participating in contract development sessions, or in meetings and presentations required for the contract approval process. Each Service Provider that enters into the procurement process shall prepare the required materials and submittals at its own expense and with the express understanding that the Service Provider cannot make any claims whatsoever for reimbursement from the City for the costs and expenses associated with the procurement process.

1.6. Proposal Conditions.

The following terms are applicable to this RFP and the Service Provider's Proposal.

1.6.1. RFP Not An Offer.

This RFP does not constitute an offer by the City. No binding contract, obligation to negotiate, nor any other obligation shall be created on the part of the City unless the City and the Service Provider execute a Contract. No recommendations or conclusions from this RFP process concerning the Service Provider shall constitute a right (property or otherwise) under the Constitution of the United States or under the Constitution, case law, or statutory law of North Carolina.

1.6.2. Right to Terminate Discussions.

The Service Provider's participation in this process might result in the City selecting the Service Provider to engage in further discussions. The commencement of such discussions, however, does not signify a commitment by the City to execute a Contract or to continue discussions. The City can terminate discussions at any time and for any reason.

1.6.3. Requirement for Representation as to Accuracy and Completeness of Proposal.

Each Service Provider shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **"The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts."**

1.6.4. Trade Secrets/Confidentiality.

Upon receipt at the Procurement Services Division, your Proposal is considered a public record except for material which qualifies as "trade secret" information under N.C. Gen. Stat. 66-152 et. seq. including Personal Identification information to include, but not be limited to, social security numbers, bank account numbers, and drivers license numbers. After the Proposal due date, the City's Evaluation Committee, as well as other City staff and members of the general public who submit public records requests will review the Proposal.

The public disclosure of the contents of each Service Provider Proposal submitted in response to this RFP is governed by Chapter 132 and 66-152 et. seq. of the

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General Statutes of North Carolina. If any Proposal contains trade secret information as defined by Chapter 66-152 et. seq. of the General Statutes of North Carolina, such trade secret information should be specifically and clearly identified in accordance with this **Section 1.6.4.**

To properly designate material as trade secret under these circumstances, each Service Provider must take the following precautions: (a) any trade secrets submitted by a Service Provider should be submitted in a separate, sealed envelope and on separate CD for electronic files, marked **“Trade Secret—Confidential and Proprietary Information—Do Not Disclose Except for the Purpose of Evaluating this Proposal,”** and (b) the same trade secret/confidentiality designation should be stamped on each page of the trade secret materials contained in the envelope and on each page of the electronic file.

In submitting a Proposal, each Service Provider agrees that the City may reveal any trade secret materials contained in such response to all City staff and City officials involved in the selection process, and to any outside consultant or other third parties who serve on the Evaluation Committee or who are hired or appointed by the City to assist in the evaluation process.

Furthermore, each Service Provider agrees to indemnify and hold harmless the City and each of its officers, employees, and agents from all costs, damages, and expenses incurred in connection with refusing to disclose any material, which the Service Provider has designated as a trade secret. **Any Service Provider that designates its entire Proposal as a trade secret may be disqualified.**

1.6.5. Prohibited Discrimination.

The City is committed to promoting equal opportunities for all and to eliminating prohibited discrimination in all forms. For purposes of this section, Prohibited Discrimination means discrimination in the solicitation, selection, and/or treatment of any subcontractor, vendor, supplier or commercial customer on the basis of race, ethnicity, gender, age, religion, national origin, disability or other unlawful form of discrimination. Without limiting the foregoing, Prohibited Discrimination also includes retaliating against any person, business or other entity for reporting any incident of Prohibited Discrimination. It is understood and agreed that not only is Prohibited Discrimination improper for legal and moral reasons, Prohibited Discrimination is also an anti-competitive practice that tends to increase the cost of goods and Services to the City and others. As a condition of entering into any Agreement, the Service Provider shall represent, warrant and agree that it does not and will not engage in or condone Prohibited Discrimination. Without limiting any rights the City may have at law or under any other provision of any Agreement, it is understood and agreed that a violation of this provision constitutes grounds for the City to terminate any such Agreement.

1.6.6. Statutory Requirements.

Any Contract awarded as a result of this RFP shall be in full conformance with all statutory requirements of North Carolina and all statutory requirements of the Federal Government, to the extent applicable.

1.6.7. Reservation of Right to Change Schedule.

The City shall ultimately determine the timing and sequence of events resulting from this RFP. The City reserves the right to delay the closing date and time for any phase if City staff believe that an extension will be in the best interest of the City.

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- 1.6.8. Reservation of Right to Amend RFP.
The City reserves the right to amend this RFP at any time during the process, if it believes that doing so is in the best interests of the City. Any addenda will be posted to the Internet at www.ips.state.nc.us, bid # 269-2009-120. Service Providers are required to acknowledge their receipt of each addendum by including the Addenda Receipt Confirmation Form set forth in **Section 7, Form Two** with their Proposal.
- 1.6.9. Additional Evidence of Ability.
Service Providers shall be prepared to present additional evidence of experience, qualifications, abilities, equipment, facilities, and financial standing. The City reserves the right to request such information at any time during the Proposal evaluation period for this RFP.
- 1.6.10. No Collusion or Conflict of Interest.
By responding to this RFP, the Service Provider shall be deemed to have represented and warranted that the Proposal is not made in connection with any competing Service Provider submitting a separate response to this RFP, and is in all respects fair and without collusion or fraud.
- 1.6.11. Proposal Terms Firm and Irreversible.
The signed Proposal shall be considered a firm offer on the part of the Service Provider. The City reserves the right to negotiate price and Services. All Proposal responses (including all statements, claims, declarations, prices and specifications in the Proposals) shall be considered firm and irrevocable for purposes of future Contract negotiations unless specifically waived in writing by the City. The Service Provider chosen for award should be prepared to have its Proposal and any relevant correspondence incorporated into the Contract, either in part or in its entirety, at the City's election. Any false or misleading statements found in the Proposal or Contract exceptions not included in the Proposal may be grounds for disqualification.
- 1.6.12. Proposal Binding for 180 Days.
Each Proposal shall contain a statement to the effect that the Proposal is a firm offer for one-hundred-eighty (180) calendar day period from the date of the opening. This statement must be signed by an individual authorized to bind the Service Provider and include their name, title, address, and telephone number. All prices quoted shall be firm and fixed for the full Contract period. The City shall have the option to accept subject to exception by Contract.
- 1.6.13. SBO Program.
It is the policy of the City of Charlotte in accordance with SB 1336 as approved by the NC General Assembly on August 27, 2002, that Small Business Enterprises shall have the maximum opportunity to compete for and participate in the performance of contracts issued on behalf of the City of Charlotte. The City further requires that its contractors agree to take all the necessary and responsible steps to ensure that Small Business Enterprises have the maximum opportunity to participate as subcontractors for contractors issued by City of Charlotte, Economic Development Division.
- 1.6.14. Subcontracting.
The Service Provider given contract award shall be the prime contractor and shall be solely responsible for contractual performance. In the event of a subcontracting relationship, the Service Provider shall remain the prime contractor and will assume all responsibility for the performance of the Services that are supplied by all subcontractors. The City retains the right to approve all subcontractors.

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Additionally, the City must be named as a third party beneficiary in all subcontracts.

1.6.15. Equal Opportunity.

The City has an equal opportunity purchasing policy. The City seeks to ensure that all segments of the business community have access to supplying the goods and services needed by City programs. The City provides equal opportunity for all businesses and does not discriminate against any Service Providers regardless of race, color, religion, age, sex, and national origin or disability.

1.6.16. Use of City's Name.

No advertising, sales promotion or other materials of the Service Provider or its agents or representatives may identify or reference the City in any manner absent the prior written consent of the City.

1.6.17. Withdrawal for Modification of Proposals.

Service Providers may change or withdraw their Proposals at any time prior to the Proposal due date; however, no oral modifications will be allowed. Only telegrams, letters, or other formal written requests for modifications or corrections of a previously submitted Proposal, which is addressed in the same manner as the Proposal, and received by the City prior to the scheduled closing time for receipt of Proposals, will be accepted. The Proposal, when opened, will then be corrected in accordance with such written request(s), provided that the written request is contained in a sealed envelope, which is plainly marked "**Modifications to Proposal.**"

1.6.18. No Bribery.

In submitting a response to this RFP, each Service Provider certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the foregoing has bribed, or attempted to bribe, an officer or employee of the City in connection with the Contract.

1.6.19. Exceptions to the RFP.

Other than exceptions that are stated in compliance with this Section, each Proposal shall be deemed to agree to comply with all terms, conditions, specifications, and requirements of this RFP including the City's Sample Contract language included as **Section 8**. An "exception" is defined as the Service Provider's inability or unwillingness to meet a term, condition, specification, or requirement in the manner specified in the RFP including the Sample Contract language included as **Section 8**. All exceptions taken must be identified and explained in writing in your Proposal and must specifically reference the relevant section(s) of this RFP. If the Service Provider provides an alternate solution when taking an exception to a requirement, the benefits of this alternative solution and impact, if any, on any part of the remainder of the Service Provider's solution, must be described in detail.

1.6.20. Fair Trade Certifications.

By submission of a Proposal, the Service Provider certifies that in connection with this procurement:

- The prices have been arrived at independently, without consultation, communication, or agreement, for the purpose of restricting competition, as to any matter relating to such prices with anyone;
- Unless otherwise required by law, the prices which have been quoted in its Proposal have not been knowingly disclosed by the Service Provider and will not knowingly be disclosed by the Service Provider prior to opening; and

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- No attempt has been made or will be made by the Service Provider to induce any other person or firm to submit or not to submit a Proposal for the purpose of restricting competition.

1.6.21. Clarification of Ambiguities.

Any Service Provider believing that there is any ambiguity, inconsistency or error in this RFP shall promptly notify the City in writing of such apparent discrepancy. Failure to notify will constitute a waiver of claim for ambiguity, inconsistency or error.

1.6.22. Service Provider's Obligation to Fully Inform Themselves.

Service Providers or their authorized representatives are expected to fully inform themselves as to all conditions, requirements and specifications of this RFP before submitting Proposals. Failure to do so will be at the Service Provider's own risk.

1.6.23. Disclaimer.

Each Service Provider must perform its own evaluation and due diligence verification of all information and data provided by the City. The City makes no representations or warranties regarding any information or data provided by the City.

2. PROCUREMENT PROCESS.

This **Section 2** contains information about the procurement process for this Project.

2.1. Schedule and Process.

The following chart shows the schedule of events to prepare the Service Provider's Proposal. The key events and deadlines for this process are as follows, some of which are set forth in more detail in the Sections that follow:

DATE	EVENT
NOVEMBER 7, 2008	<i>Issuance of RFP.</i> The City issues this RFP.
DECEMBER 3, 2008	<i>Request for Proposals Acknowledgement.</i> Service Providers who intend to submit a Proposal shall submit the RFP Acknowledgement Form on this date to the fax number listed in Section 2.2 .
DECEMBER 4, 2008	<i>Submission of Written Questions</i> Service Providers are permitted to submit written questions, but only for purposes of clarifying this RFP. All submissions must be e-mailed in a Microsoft Word document to Billy Belcher at the address and number listed in Section 2.3 . All questions are due by 2:00 p.m. on DECEMBER 4, 2008.
DECEMBER 19, 2008	<i>Proposal Submission.</i> Proposals are due by 2:00 p.m. on DECEMBER 19, 2008, at the Procurement Services Division, CMGC 9 th Floor. All Proposals will be time-stamped upon receipt and held in a secure place until this date.

2.2. Intent to Propose.

Please acknowledge receipt of this RFP via facsimile by **DECEMBER 3, 2008** using the Request for Proposals Acknowledgement Form located in **Section 7, Form One**. Complete the form in its entirety advising the City of your firm's intention to submit or not submit a Proposal. Fax the completed and signed form to 704-632-8255, Attention: Billy Belcher.

2.3. Interpretations and Addenda.

No interpretation or clarification of the meaning of any part of this RFP will be made orally to any Service Provider. Otherwise, Service Providers must request such interpretations or clarifications in writing from the City. When submitting questions, please reference the RFP page and topic number.

When responding to Service Provider questions or issuing addenda to the RFP, the City will post the answer or information to the Internet at www.ips.state.nc.us, solicitation # 269-2009-120.

Billy Belcher
City of Charlotte
Procurement Services Division
600 East 4th Street, CMGC 9th Floor
Charlotte, NC 28202
RFP # 269-2009-120
Fax: 704-632-8255
E-mail: bbelcher@ci.charlotte.nc.us

The City reserves the right to disqualify any Service Provider who contacts a City or County official, employee, or agent concerning this RFP other than in accordance with this Section. Nothing in this Section shall prohibit the City from conducting discussions with Service Providers after the Proposal due date.

2.4. Submission of Proposals.

One (1) electronic copy on a CD and one (1) unbound original Proposal signed in ink by a company official authorized to make a legal and binding offer along with the corporate seal, plus Six (6) copies shall be submitted to the address listed in **Section 2.3** above by **DECEMBER 19, 2008 on or before but no later than 2:00 p.m.** The "original" Proposal and each of the Six (6) copies shall be complete and unabridged, and shall not refer to any other copy of the signed/sealed original for any references, clarifications, or additional information. When received, all Proposals and supporting materials, as well as correspondence relating to this RFP, shall become the property of the City. **Proposals sent by fax or email will not be accepted.**

Due to increased security concerns at the Charlotte-Mecklenburg Government Center (CMGC), your sealed boxed including any portions marked as Confidential/Trade Secret, may be searched and thoroughly inspected prior to admittance. Please allow time for this search to take place and to re-seal the box if delivering your Proposal in person to the CMGC.

Do not arrive at the Procurement Services Division on the Proposal due date for the purposes of reviewing your competitor's Proposals. The Proposals will not be read aloud or made available to inspect or copy until any trade secret issues have been resolved.

2.5. Correction of Errors.

The person signing the Proposal must initial erasures or other corrections in the Proposal. The Service Provider further agrees that in the event of any obvious errors, the City reserves the right to waive such errors in its sole discretion. The City, however, has no obligation under any circumstances to waive such errors.

2.6. Evaluation.

As part of the evaluation process, the Evaluation Committee may engage in discussions with any Service Provider. Discussions might be held with individual Service Providers to determine in greater detail the Service Provider's qualifications, to explore with the Service Provider the scope and nature of the required contractual Services, to learn the Service Provider's proposed method of performance and the relative utility of alternative methods, and to facilitate arriving at a Contract that will be satisfactory to the City.

During such interview, the Service Provider may be required to orally and otherwise present its Proposal and to respond in detail to any questions posed. Additional meetings may be held to clarify issues or to address comments, as the City deems appropriate. Service Providers will be notified in advance of the time and format of such meetings.

Since the City may choose to award a Contract without engaging in discussions or negotiations, the Proposals submitted shall define the Service Provider's best offer for performing the Services described in this RFP.

2.7. Contract Award by Council.

As soon as practical after opening the Proposals, the name of the apparent successful Service Provider will be submitted to the Council for final approval of award. If approved by the Council, the Procurement Services Division will provide Contract documents to the Service Provider. In the event that Council approval is not received within one hundred eighty (180) calendar days after opening of the Proposals, the Service Provider may request that it be released from the Proposal.

3. SCOPE OF FIRE STATION ALERTING SYSTEM.

3.1. General Scope.

The City of Charlotte Fire Department desires to obtain an experienced firm to design, install and maintain a Fire Station Alerting System. This System should only alert the needed Fire Stations while not disturbing others through their Public Announcement System (PA). The PA systems at the Fire Stations that are not being dispatched will remain closed and will not hear the broadcast. The new Station Alerting System will be able to use both Radio and IP mediums. The selected System should provide open-architecture interface to facilitate seamless upgrades or replacements in the future and also shall be scalable.

The selected System will have a demonstrated capability to interface with TriTech VisiCAD system. It will simplify the unit status monitoring function and provide units additional incident specific information. This will relieve dispatchers of most of the workload of these functions by supporting direct entry/query of information from the field. The new System with its System generated alerting capabilities is expected to improve the City's Fire Department response times.

The selected System is not replacing the existing MOSCAD Station Alerting System but rather will be built as a redundant System. Both systems are expected to co-exist with automatic failover capability to each other. The selected Service Provider is expected to demonstrate the System during the initial pilot phase consisting of four Fire Stations. Upon successful completion of the Pilot Project, the solution will be rolled out to all other Fire Stations using a phased approach of approximately 12 Fire Stations each.

The selected System shall be able to alert Fire Stations from both Primary and Secondary Dispatch Centers. Due to the critical nature of the requested System, it is important to have a single point of contact and responsibility for any problems or issues that may arise. Accordingly, it is a key condition of the agreement that the Service Provider accept full contractual responsibility for all components of the System and all aspects of System performance. The Service Provider should provide a comprehensive proposal covering the design, installation, maintenance and support of a complete IP based Station Alerting System.

3.2. Desired Solution.

The City of Charlotte, hereinafter referred to as "City" is soliciting proposals from qualified firms in response to the Request for Proposals (RFP) to provide, install, and support an integrated technology solution for Fire Station Alerting. Current Fire Department Systems includes a Computer Aided Dispatch System (CAD), an Automated Vehicle Locator System (AVL), a comprehensive Records Management System (RMS), and GIS-based Planning Software. In addition to interfacing with CAD (TriTech VisiCAD), the systems may be required to interface with, Emergency Medical Services (MEDIC) CAD, Positron E-911 System, and current MOSCAD Station Alerting System.

This RFP seeks assurance of:

- Turnkey system;
- A proven track record for the system proposed;
- High reliability;
- Future expandability;
- Functional extensibility;
- Operator/user friendliness;
- Maintainability;
- Long-term useful life;
- Timely implementation;

- State of the art technology; and
- Competitive prices.

Various Service Providers may wish to combine their talents in responding to the RFP. However, in these instances, a prime vendor, hereinafter referred to as Service Provider, must be designated that will be accountable for the turnkey System proposal and any contract that may result.

The decision to select either a Service Provider that proposes complete System integration and assumes full responsibility for the design, supply, installation, and commissioning of the entire System, or to select separate proposals for the various System components will be made on a evaluation of all factors that are deemed by the City, to be in the best interest of the City. In the event that a “best of the breed” solution is embraced, the Fire Station Alerting System Software vendor may be designated as the primary Service Provider.

All Service Providers shall submit a complete System integrator proposal. Service Providers must specify the platform compatibility of their Software, as well as provide a price breakdown for each of the Hardware elements. All proposals shall included responses to **Sections 3 through 7** (as defined in **Section 4**).

3.3. Statistical Information.

GEOGRAPHIC INFORMATION	
Service Area in Square Miles:	287.3
Population Served:	696,837 (as of 2009)
Number of Fire Departments (CFD and Individual VFDs)	18
Number of Battalions	7
Number of Fire Stations	38
Number of Engines	39
Number of Ladders	14
Number of Rescue	2
Number of Specialized Units (ACFR (2), Brush and Tankers five each)	32
Number of Fire Subdivisions (Boxes, Station /Areas, Reporting Districts)	2,000 plus
DEPARTMENTAL STAFFING	
Total Number of F/T Fire Personnel	1102
Total Number of Fire Operations Personnel	983
Total Number of Volunteer Fire Personnel	0
Number Assigned to Administration	24
COMMUNICATIONS CENTER OPERATIONS	
Number of Dispatch Workstation Positions	7
Number of Call-Takers Workstation Positions	8
Number of Supervisor Workstation Positions	1
Number of Administrative Workstation Positions	3
Number of Training Positions	10
Number of Remote Positions/Locations	10

INTERFACES	Existing System	# Workstations
Enhanced 911	Positron	8
Alphanumeric Paging	NotePager Pro	3
Mobile Data Computer	Tritech	110
Station Alerting	MOSCAD	7

CAD to CAD	TriTech	
Message Switch (State and Local)		
Fire Records Management System	FDM Software	100
Fire Computer Aided Dispatch System	TriTech	

Telephone Calls Received	Fire '06	Fire '07
Number of E 9-1-1 Telephone Calls:	20,571	20,778
Number of 7-Digit Telephone Calls:	173,724	172,066
Number of Calls on TDD Line:		

3.4. Organization.

3.4.1 Government.

The City of Charlotte operates in a Manager/Council form of government. The Manager, appointed by the City Council, is responsible for supervising day-to-day activities and carrying out the policies established by the City Council. In addition the City Manager is charged with administering the day-to-day operations of the City government as well as implementing policies enacted by the City Council.

City government has evolved to become the unit of local government providing a portion of the funding for several consolidated City-County departments that are operated by the City. These include Animal Control, Community Relations, Emergency Management, Insurance and Risk Management, Planning Commission, Charlotte-Mecklenburg Police Department, Purchasing, and the Charlotte-Mecklenburg Utility Department. Some of the other departments under the City umbrella include the Fire, Human Resources, Finance, Transportation, Transit, and the Engineering departments.

3.4.2 Fire Department.

3.4.2.1. General.

The Charlotte Fire Department (CFD) has a staff of 1,082 employees to provide fire suppression and EMS first response, prevention, investigation services and dispatch communications to the City. CFD also provides first responder emergency medical services, usually in concert with the separate County MEDIC organization described below.

CFD is organized into eight divisions:

- Operations;
- Training;
- Logistics;
- Fire Prevention;
- Fire Investigation;
- Administration;
- Communications; and
- Emergency Management.

CFD utilizes seven (7) battalions and thirty-eight (38) fire stations (one coming online by December 2008 and one more in 2009) to service a variety of sectors throughout the City. CFD handles the City, while County Fire handles the remainder of the County. County Fire is not part of this solicitation. However, CFD has a mutual aid agreement with the County, where CFD may dispatch for the County as well as accommodate move-ups. The Fire Department deploys thirty-nine (39) engines, fourteen (14) ladders, as well as two (2) Rescue squads, and

thirty-two (32) specialized units such as Hazardous Material units, a POD unit, a Water Rescue Unit, Investigators, Fire Prevention and Blaze units.

Nine (9) people CFD/ Information Technology Section provides application and majority of the user support. Server and Communications support is provided by Business Support Services, a Key Business Unit of the City.

3.4.2.2. Fire Communications Division.

The Communications Division of the CFD is a stand-alone 24-hour emergency communications center that is responsible for efficiently matching the public's requests for service with the resources of the CFD, and assuring prompt response to fire emergencies.

The division has thirty-six (36) budgeted positions. It is staffed by twenty-four (24) Telecommunicator I positions, four (4) Lead Telecommunicator II positions and five (5) Telecommunicator II positions (shift supervisors) divided into five (5) teams. The three (3) shifts are: 7:00 am to 3:00 pm; 3:00 pm to 11:00 pm; and 11:00 pm to 7:00 am. Each shift is comprised of one Telecommunicator II, one Lead Telecommunicator and four to five Telecommunicator-Is. Four employees are Telecommunicator-IIIs of which two are responsible for logistical, computer support and GIS; one Telecommunicator-III serves as the training officer, the other serves as quality assurance and admin support. This division is headed by the Communications Manager.

The Communication Center's eight (8) consoles receive their E-911 calls forwarded from the main Police public safety answering point. The Communications Center also receives requests for service through call ring down lines connected to both the Police Department and the County's communications independent center for EMS service (MEDIC) and county volunteer fire dispatch. Direct access non-emergency public information lines are also located in the center. In addition, each of the City's (38) fire stations is connected to the Communications Center by a direct ring-down line.

The Communications Center dispatched 84,346 incidents in FY06, with 68% of them being EMS first responder, received typically through a ring down from the MEDIC call takers.

3.4.2.3. Mecklenburg County Emergency Medical Services (MEDIC).

MEDIC provides paramedic emergency medical care 24 hours a day, seven days a week. Medical-related 911 calls are transferred from the Police Department for emergency assistance. MEDIC utilizes American TriTech's VisiCAD. The MEDIC communications center is the overflow PSAP for all 911 calls. Their administrative office is located in the Medic Building on Statesville Road.

3.5. Existing Call Process Flow Description.

Calls for service typically begin with a telephone call to 911, which goes directly to the police department PSAP. If the call is a 911 call, the City's E-911 System captures the ANI/ALI data and makes it available to the call taker. Only Police calls are handled at the Police Communications Center. Fire and Medical calls are transferred through a central office transfer to the CFD and MEDIC.

The majority of requests for fire response are received from MEDIC for first responder services. Whether transferred from Police or received from MEDIC, the CFD dispatchers obtain appropriate caller information and appropriate response information. If Police response is also needed, the Police Department is notified.

3.6. Project Goals.

3.6.1 Project goals.

The goals of the Fire Station Alerting Project are to:

- Install a state-of-the-art solution for CFD that provides Station Alerting via both Radio and IP mediums.
- Selected System will have demonstrated capability to interface with TriTech VisiCAD system.
- Selected System should be able to automatically use the current MOSCAD Station Alerting System as a backup should the new primary System become unavailable.
- Selected System should provide open-architecture interface to facilitate seamless upgrades or replacements in the future.
- Selected System should be scalable.
- Selected System should be capable of handling peak call loads with ease.
- Selected System should process the selection of units for assignment to calls effectively, and help assure that optimal units are selected.
- Selected System should reduce the time required for initial alerting and dispatch communications to assigned units, and provide them with complete, accurate, and clear dispatch information regardless of their location i.e. in assigned Fire Station, in a move-up location, or available radio.
- Selected System should simplify the unit status monitoring function and providing units additional incident specific information thus relieving dispatchers of most of the workload of these functions by supporting direct entry/query of information from the field.
- Selected System should provide easy move-up alerting functionality.
- Selected System should improve System response times.

3.6.2 Integration Overview.

Based upon the results of the operational overview and needs assessment, the following interfaces have been identified:

- Integration between the new CAD subsystem with the proposed Station Alerting System.
- Integration of the Mobile Data Computers with the proposed Station Alerting System.
- Integration of “tear and run” printers at the Fire Stations.

3.6.3 Existing Systems.

System	Hardware	Software	Other
CAD	HP Servers	TriTech VisiCAD	
Radio dispatch	Motorola 800 MHz	CentroCom Gold Elite	
RMS	HP Servers	FDM	
MDC	Panasonic Toughbook, Sierra Wireless Modem	TriTech VisiNet Mobile	
GIS	HP Servers	ESRI	
Enhanced 911	PSAP stations		
ANI/ALI	Positron	Positron Power 911	Power Map
Station Alerting	Motorola/HP Server	MOSCAD	
CAD to CAD (Fire/MEDIC) Interface	HP Server	TriTech interface	

The business goals of the Fire Department Information Technology Upgrade Project are:

- Procure a Station Alerting System that will provide a high degree of redundancy
- Increase the functionality of the new CAD system by securely interfacing it to the proposed Station Alerting System
- Procure a Station Alerting System that employs the latest in Hardware and Software technology.
- Procure a Station Alerting System that will provide utmost System availability.
- Procure a Station Alerting system from a single Service Provider who will supply all of the Software and Services necessary to deliver a completely operational System inclusive of all interfaces.

3.7. Main System.

The City of Charlotte Fire Department, Charlotte, North Carolina, currently has an 800 MHz RF based Fire Station Alerting System. It is a Motorola MOSCAD system, installed in January 2000, which interfaces to a TriTech VisiCAD, Computer Aided Dispatch (CAD) System. There is one RF transmitter site and five relay towers in Mecklenburg County. MOSCAD utilizes an 800 MHz duplex frequency and one talk group from the 800 MHz Trunked Radio System. The main Fire Dispatch Center consists of dual MOSCAD Front End

Processors (FEPs) to provide full redundancy on both the link and the processing equipment with computer posts for the CAD.

The original design philosophy was that the current site could provide Citywide, and part of the ETJ (Extra Territorial Jurisdiction), RF coverage. The system was designed based on the physical locations of Fire Stations at the time of implementation. The System had been sized for all fire stations (32 at the time) including a test station and portable / temporary alerting facilities and included capacity for fifty (50) stations. One Remote Terminal Unit (RTU) is used to support the Fire Station Alerting System. In addition to being automatically controlled by CAD, the Fire Station Alerting System has the ability to manually alert stations in the event CAD is unavailable for whatever reason.

3.8. Functional Requirements.

Proposals submitted without fully responding to the following (3.8.1 and 3.24.9) questions will be disqualified from consideration.

On a high level view, we understand the information flow from the CAD to the Fire Station Alerting System to be as follows:

- Station Alerting System receives the list of Stations/Units to be alerted from CAD.
- Units/Stations send back ack/nak to CAD.

Assumptions:

- T-1 connectivity to the Stations.
- EVDO connectivity to Mobile units.

Please let us know if you need any further explanation in order to adequately answer the following questions.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.8.1 Please give us the time taken in milliseconds for the following to occur from the time of receiving the list of Stations/Units to be alerted from CAD:

Single incident notifications:

- a. Notification to a **single** Station via **T-1**
Time taken in milliseconds: Insert Text
- b. Notification to a **single** Unit via **EVDO**
Time taken in milliseconds: Insert Text
- c. Notification to a **four** Stations via **T-1**
Time taken in milliseconds: Insert Text
- d. Notification to a **four** Units via **EVDO**
Time taken in milliseconds: Insert Text
- e. Notification to a **sixteen** Stations via **T-1**
Time taken in milliseconds: Insert Text
- f. Notification to a **sixteen** Units via **EVDO**
Time taken in milliseconds: Insert Text

Multiple incident notifications:

- a. Notification to **two** Stations via **T-1**
Time taken in milliseconds: Insert Text
- b. Notification to **two** Units via **EVDO**
Time taken in milliseconds: Insert Text
- c. Notification to **four** Stations via **T-1**
Time taken in milliseconds: Insert Text
- d. Notification to **four** Units via **EVDO**
Time taken in milliseconds: Insert Text
- e. Notification to **sixteen** Stations via **T-1**
Time taken in milliseconds: Insert Text
- f. Notification to **sixteen** Units via **EVDO**
Time taken in milliseconds: Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.8.2 Please give us the time taken in milliseconds for the following to occur from the time of receiving the list of Stations/Units to be alerted from CAD:

Single incident notifications:

- a. Failure of notification to **single** Station via **T-1**
Time taken in milliseconds for re-try: Insert Text
- b. Failure of notification to **single** Unit via **EVDO**
Time taken in milliseconds for re-try: Insert Text
- c. Failure of notification to one of the **two** Stations via **T-1**
Time taken in milliseconds for re-try: Insert Text
- d. Failure of notification to one of the **two** Units via **EVDO**
Time taken in milliseconds for re-try: Insert Text
- e. Failure of notification to two of the **four** Stations via **T-1**
Time taken in milliseconds for re-try: Insert Text
- f. Failure of notification to two of the **four** Units via **EVDO**
Time taken in milliseconds for re-try: Insert Text
- g. Failure of notification to eight of the **sixteen** Stations via **T-1**
Time taken in milliseconds for re-try: Insert Text
- h. Failure of notification to eight of the **sixteen** Units via **EVDO**
Time taken in milliseconds for re-try: Insert Text

Multiple incident notifications:

- a. Failure of notification to one of the **two** Stations via **T-1**
Time taken in milliseconds for re-try: Insert Text
- b. Failure of notification to one of the **two** Units via **EVDO**
Time taken in milliseconds for re-try: Insert Text
- c. Failure of notification to two of the **four** Stations via **T-1**
Time taken in milliseconds for re-try: Insert Text
- d. Failure of notification to two of the **four** Units via **EVDO**
Time taken in milliseconds for re-try: Insert Text
- e. Failure of notification to eight of the **sixteen** Stations via **T-1**
Time taken in milliseconds for re-try: Insert Text
- f. Failure of notification to eight of the **sixteen** Units via **EVDO**
Time taken in milliseconds for re-try: Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

- 3.8.3.** Please explain in detail how the system responds to CAD? For example after a successful alert the proposed system may send an “ACK” to the CAD. Does the proposed system’s interaction with CAD impact system response time?

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.8.4. This is a follow-up question to the question above. For multiple alerts on an incident, how do you handle a mix of “ACK/NAK” messages from and to CAD? What is its impact on the proposed system’s response time?

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.8.5. Explain the audio functionality of the proposed system.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.9. General.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.1. NFPA 1221 - The proposed station alerting solution shall be NFPA 1221 compliant. Fully describe the manner in which the proposed station alerting solution meets this requirement.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.2. Proposer shall have been in business providing these types of systems no less than three (3) years.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.3. Proposer must have the same software product (regardless of version) and hardware being offered installed and fully operational in at least three (3) other customer sites.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.4. Software must be capable of interfacing with TriTech Software's VisiCAD Computer Aided Dispatch system. Please provide examples if you comply with this requirement.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.9.5. If CFD is responsible for Server maintenance, Server operating system software must be Microsoft Server 2003 compatible to comply with City software standards.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.6. If CFD is responsible for database maintenance, the relational database management software must be MSSQL.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.9.7. Proposed system must allow simple systems administrator definable reports from use of pull-down menus and other GUI tools.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.8. Proposed system must allow secure, remote site access by WAN or LAN dedicated circuit.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.9. The system must allow any database to be backed up without interrupting operations or performance.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.9.10. The Service Provider shall provide one set of operation manuals for non-technical operational personnel, to include:

- Instructions for utilizing your system.
- Description of all system functions, operating procedures, screen formats, and commands.
- Description of all system codes, mnemonic codes, abbreviations, and error messages.
- Description of available inquiries and selection parameters.
- Backup procedures, file maintenance procedures, and report production procedures.
- Set-up procedures.
- Schedules for backup and maintenance.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.9.11. Documentation provided for operational personnel shall not require such personnel to have computer experience beyond the level that might be acquired running a home PC with consumer software.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.9.12. The Service Provider shall provide five sets of end user manuals for each system supplied. If documentation is provided electronically (CD, online help, etc.) it must be printable without the need to reformat prior to printing.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.9.13. System software documentation for System Administrators shall include:

- System generation/loading procedures.
- System calls flow and processing description.
- Description of all utilities.
- System maintenance and test procedures.
- Description of system error processing routines – for example, how to purge erroneous data while the system is operational

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.9.14. Proposer support for hardware and software must be available 24 hours per day 7 days per week as well as offering remote (VPN) support. Please specify how support is provided during business hours, off hours and holidays.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

3.10. Security.

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.10.1. The Station alerting system should allow system administrators to limit command functionality.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.10.2. The Station Alerting system should allow flexibility to deny or allow access to specific fields of incidence records based on user security settings.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.10.3. The Station alerting system must contain management and administrative features that will secure the system from unauthorized access or modification.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.10.4. The system must provide the capability to encrypt data whenever it is transmitted over public or wireless networks.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.10.5. Please list all security precautions embedded in your system.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.11. Tone and Time Tracking Features.

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.11.1. Software must provide for multiple alert timers for unit by call type and status. Times tracked must include at a minimum the following:

- Incident (or event) Initiate Time i.e., Receipt notification from CAD
- Dispatched Time / Primary and Additional Units
- Change Location / Primary and Additional Units
- Available Time / Primary and Additional Units
- Control Time

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.11.2. Unit's times for incidents or events must be tracked individually for each unit assigned to an event. This information must be cross-referenced by the incident number.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.11.3. A unit tracking database shall exist for tracking (time stamping) miscellaneous activities/statuses noting special locations and equipment and any other unit-related activities. This is mainly for trouble shooting purposes since CAD will be the primary time keeper and the data is subsequently transferred to RMS.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.11.4. The Station alerting system should provide the ability to manually initiate user-defined timers for an incident. These timers should be displayed separately from the standard incident timers and should be logged in the incident record when started.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.12. Incident Management.

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.12.1. The Station Alerting system must time stamp (to the second, e.g. hh:mm:ss) all text entry, incident (or event) and unit status changes to the incident record.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.12.2. The Station Alerting system must support the ability to “pre-empt” a unit from an incident.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.12.3. The audio alert sequence of the proposed system should be configurable by the System Administrator.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.12.4. The fields for station printing of the proposed system should be configurable by the System Administrator.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.12.5. Please explain how an out of station apparatus will be alerted.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.13. Internet Browser Access.

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.13.1. The Station alerting system should allow access to it using Internet Explorer (latest Version). Access rights must be determined by the security profile for an authorized user.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.13.2. The Station alerting system should allow access to historical data. Please explain.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.14. Screen Handling.

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.14.1. The input screens for Systems Administrator must denote the required fields by highlighting them or by using some other user-friendly mechanism.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.14.2. The input screens must perform data validation on all input fields. All invalid fields must be identified with the cursor positioned at the first incorrect field. An error message that relates to the first field in error must be displayed.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.14.3. Drop down boxes should be used whenever possible to show valid responses. Incomplete or invalid data must be prevented from entering the system.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.14.5. If an error occurred on the command line, the cursor should be positioned at the point at which the error occurred.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.15. CAD Interface.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.15.1. The Station alerting system shall be controlled directly from the TriTech VisiCAD System. Fully describe the manner in which the TriTech VisiCAD System will control the proposed Station Alerting System.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.15.2. The Station Alerting system shall send an alert to each station assigned to the incident utilizing an existing TCP/IP connection and RF. Message should be sent to CAD indicating the success or failure of each dispatched station for the given incident. Fully describe the manner in which the proposed Station alerting System meets this requirement.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.15.3. The interface to the CAD system shall support, at a minimum, the following messages from CAD:

- Dispatches
- Move-ups
- Cancellations
- Non-emergency alerts
- Status queries
- Unit status messages

Describe the interface that will be used in the proposed Station Alerting System or attach an API document describing the interface requirements.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.15.4. The Station Alerting system should indicate estimated time of arrival (ETA) for each recommended unit. A warning should be issued if the unit is overdue (time is exceeded by a specified amount of time).

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.15.5. For each dispatch message received from CAD, the proposed station alerting solution shall send an alert to each station assigned to the incident utilizing an existing TCP/IP and Radio connection. A message will be sent to the CAD system indicating the success or failure of each dispatched station for the given incident. Fully describe the manner in which the proposed station alerting solution meets this requirement.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.15.6. As soon as a unit's assignment is complete it must be placed back into "available" status in CAD. The proposed system should be able to display unit status both on the consoles and at the Stations.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.15.7. The Station Alerting system must automatically place the call back in the dispatch pending queue if all units are "pre-empted" from an incident.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.16. Radio Interface.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.1. The proposed station alerting solution shall coexist with Motorola MOSCAD station alerting system that uses a radio interface for redundant dispatching.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.2. The proposed station alerting solution must interface to the existing Motorola Gold Elite system. Describe how the proposed station alerting solution will integrate with the radio system and requirements for the interface. Specify whether the interface will be through hardware, software, or a combination?

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.3. The proposed station alerting solution shall accommodate for single or group dispatches. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.4. The proposed station alerting solution shall accommodate for two dispatches in the same Fire Station for example one for E02 and the other for L02. Both units should be alerted separately. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.5. Dispatch information shall allow live dispatcher voice in addition to the automated voice announcement. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.6. The proposed station alerting solution shall be capable of using existing dispatch paging infrastructure to alert units and stations. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.7. Describe how the RF channel is selected. Specify if there is any action required by the dispatcher? Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.8. Describe how the proposed station alerting solution handles queued dispatches during busy times and how it meets the timing requirements described herein.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.16.9. Describe how the companies will be alerted via Radio if they are out of the station.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.17. Monitoring and Manual Control System.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.17.1. Each component in the alerting solution shall be monitored for online and offline status. The primary dispatch circuits shall be monitored and a prompt warning shall be provided in the event that a situation that will impact reliability occurs, as per NFPA 1221, paragraph 8.1.2. Describe the method used to monitor the primary dispatch circuits.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.17.2. In the event of a lost CAD connection the alerting solution shall provide a method for manually dispatching the stations. Describe this method for manually dispatching the stations.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.17.3. The proposed station alerting solution shall be capable of providing manual non-emergency messages to a station or group of stations. Describe this method for manually dispatching the stations.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.17.4. The proposed station alerting solution shall be capable of alerting support staff of critical events that occur within the alerting system. This shall be accomplished by all or a combination of the following methods: visually, audibly, via email/pager. Describe each critical event that is monitored and each method used to alert support staff of these critical events. Also describe how each alert can be disabled if the critical event is resolved.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.17.5. Remote system monitoring from a separate TCP/IP client residing on the TCP/IP network (and having appropriate permissions) shall be supported. Describe how system status information, warnings and alerts will be displayed in the communication center.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.17.6. All alert system events shall be recorded and stored in an easily retrievable file or MSSQL/Access database. Error and status logs shall be available to IT personnel. Describe the information that is available and explain how the information is stored and retrieved.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.18. Station Alerting System.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.1. The proposed station alerting solution shall have the capability, for any incident, to create audible dispatch alerts that announce simultaneously in multiple alert sites. Describe this function.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.2. The proposed station alerting solution shall send the alert notification over the IP network and MOSCAD, through RF. The first notification received at the alert site shall be announced without interference from the second one. Describe this function.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.3. The proposed station alerting solution shall have the ability to display a message on alert site containing information about the emergency including apparatus to respond, incident type, user comments, address and common place name (if applicable to the dispatch). The message must be configurable by the system administrator. Fully describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.4. The proposed station alerting solution shall provide sufficient relay contacts at all sites where existing relay contacts are unsuitable for the purpose of controlling lights, and public address systems. Each contact used by the proposed solution must be capable of switching up to 7 amps of current, and 120V. At a minimum, the contacts shall be able to be energized for a configurable period of time upon receipt of a CAD dispatch message. Describe the options available for activation of each relay contact, e.g. can they be controlled by any other mechanism other than receipt of CAD dispatch message.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: OPTIONAL

Requirement:

3.18.5. The proposed station alerting solution shall be capable of providing (currently available through Tear and Run Interface from CAD a dispatch printout the same information that is announced upon receipt of a CAD dispatch announcement. This information includes apparatus to response, incident type, address, common place name (if applicable to the dispatch). The printout must also include user comments if this information is provided to the system over the CAD TCP/IP

interface. This printout shall be provided in Fire Rescue Dispatch as well as at the alert site. Fully describe this functionality including whether it is configurable by System Administrator.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.6. The proposed station alerting solution shall provide at a minimum, the capability to control functions for relay activation and audible tones, at each alert site. Describe these functions fully.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.7. The proposed station alerting solution shall provide a distinct audible alert tone that clearly identifies the type of call that is being dispatched. The alert tone shall immediately precede the dispatch announcement. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.8. The proposed station alerting solution shall support alerting by:

- Agency or Group
- Station
- Unit
- Incident Type

Describe how the station solution is configured for this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.9. The proposed station alerting solution shall provide the station alert over the public address (P.A.) announcement system of the station. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.10. The proposed station alerting solution shall give priority to dispatch audio by muting any separate audio circuits previously connected to the P.A. system. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.11. The proposed station alerting solution shall be compatible with commercially available P.A. amplifiers supporting consumer audio line level (-10dbu) 500/600 ohm differential inputs. One differential 500/600 ohm input will be made available for the audio path of the proposed solution. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.18.12. The proposed station alerting solution shall include a dispatch acknowledgment. Describe how a dispatch is acknowledged and how that information is sent to the dispatch center.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.18.13. The proposed station alerting solution shall include provision for station testing such as a push button. Upon this switch or key punch, a test automated dispatch will occur over station P.A. This push button or key shall be in local vicinity to the station unit or mounted external to it.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.19. Timing.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.19.1. Audible alerts at stations shall start not more than one second after the alerting system receives a request from the CAD system. Describe this functionality and the time taken in seconds for your proposed solution.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.20. Automated Voice Announcements.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.20.1. Automated voice announcements supported shall include:

- dispatch announcements
- announcements of move-ups
- non-emergency 'canned' messages

All voice announcements shall be in a clear and consistent audio format. Describe any limitations including the following:

- How many minutes long can the messages be?
- How many canned messages are supported?

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.20.2. The automated voice dispatch announcement will include detailed dispatch information, including and not limited to the following:

- apparatus to respond
- incident type
- street address
- nearest cross street
- commonplace name

Specify other dispatch information, if any, which the system will have the capability of announcing. This should be configurable by System Administrator.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.20.3. The proposed station alerting solution shall support an unlimited number of street names and commonplace names. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.20.4. Automated voice dispatch announcements shall immediately follow the audible alert tone (Per NFPA 1221 paragraph 8.1.1.6). Describe this functionality in detail including the method used to generate the announcement whether some form of speech generation technology or prerecorded audio is used.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

- 3.20.5.** a. If an audio database is used to generate automated messages describe how it is maintained?
- b. If an audio database is used to generate automated messages please specify how often updates to the database are allowed?
- c. If no audio database is used to generate automated messages describe how announcements are generated?
- d. If database is used to generate automated messages and if CFD is expected to maintain this database, it shall be MSSQL or MS Access.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.20.6. The automated move-up announcement shall include detailed apparatus to move to a new station as well as station to move to. A tone shall immediately precede this message, which shall differ from the tone used for the automated dispatch announcement. Describe this functionality.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.20.7. A visual indication shall be provided to dispatchers to indicate whether the system is available for automated voice dispatch. Describe the appearance and the method for delivering this status to the dispatcher.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.21. Public Disclosure Documentation Requirements.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.21.1. Proposers must supply documentation for all databases sufficient to comply with North Carolina public disclosure statute, which states in part: “§ 132-6.1. Electronic data-processing records. The index shall be a public record and shall include, at a minimum, the following information with respect to each database listed therein: a list of the data fields; a description of the format or record layout; information as to the frequency with which the database is updated; a list of any data fields to which public access is restricted; a description of each form in which the database can be copied or reproduced using the CFD's computer facilities. This is a required deliverable for any database delivered as part of an integrated solution

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.22. Training.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.1. User training shall be provided to operational and dispatch personnel. Training shall also be provided to the CFD's IT personnel in the use, installation, and maintenance of the system software and hardware. There will be approximately 40 Dispatchers/Supervisors, 40 Fire Operations, and 10 CFD IT personnel to train.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.2. Training will take place on location at the CFD premises using the hardware purchased for the system or hardware comparable to any existing CFD hardware that is to be incorporated into the system. Separate training locations and times may be scheduled for training specific to these needs.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.3. The data used in the training examples shall be the actual data developed for the System by the Service Provider using CFD data or actual data gathered during the four Fire Station Pilot Project prior to CFD-wide project rollout.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.4. The Service Provider should specify any special hardware, facility features, or environmental conditions required for training.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.5. The Service Provider shall develop a training plan, and curriculum to be submitted to the CFD for approval at least thirty (30) days prior to the anticipated training start date.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.6. Training shall include providing a complete functional understanding of the system.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.22.7. Training for supervisors shall include covering all aspects of administrative/management functions as appropriate for the system.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.22.8. The system shall provide a realistic and straightforward hands-on training/simulator capability.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.22.9. The training/simulator functions shall be capable of using real system tables using backup or non-production Station Alerting and CAD Systems.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

LEVEL OF IMPORTANCE: EXPECTED

Requirement:

3.22.10. The simulator/training functions shall be available from any system working terminal, and must support and realistically simulate all functions available on-line. "TRAINING" will be distinctly displayed on the screens so that the training mode can be easily distinguished from the production mode.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.23. Disaster Recovery.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.23.1. Please identify strategies for disaster recovery, such as provision for UPS, for the proposed integrated solution that will provide the CFD with a recovery plan that does not require a complete duplication of hardware and software.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

Insert Text

3.24. Hardware, Installation, and Support.

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.1. Please list all of the required hardware for the proposed solution. Include dispatch center components, radio interface hardware, station alerting hardware (including Servers, PCs, P.A. amplifiers, Relays, Lights, etc).

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.2. Please describe the network requirements for the proposed alerting system.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.3. Please describe power requirements for the station hardware.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.4. Installation of the proposed solution is an optional item. Depending on the level of expertise required and availability of City staff resources, City may opt to take on this task. Please be sure to include all training required to install your proposed solution. All proposers are required to furnish pricing for total system installation in essence making this a turnkey project. The City will provide all wiring between equipment in separate rooms (whether in station or communication center). Describe requirements of the City pertaining to preparation for system installation. Proposer should include detailed installation instructions as well as performing on-site configuration and acceptance testing of the system.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

Requirement:

3.24.5. Please detail the responsibilities of the City and the responsibilities of the proposer not answered in subsection immediately above as related to installation.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.6. Describe warranty provided as well as length of warranty.

[Service Provider Response:](#)

[Response Code: \[Comply, Comply with Modification, Optional, Alternative, Exception\]](#)

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.7. Describe any extended warranties available.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.8. Specify your twenty-four hour a day, seven days a week support capabilities. Specify in pricing sheet, pricing for single year support, three year support, and for five year support.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

[Insert Text](#)

LEVEL OF IMPORTANCE: MANDATORY

Requirement:

3.24.9. Specify your eight hours a day, five days a week support capabilities. Specify in pricing sheet, pricing for single year support, three year support, and for five year support.

Service Provider Response:

Response Code: [Comply, Comply with Modification, Optional, Alternative, Exception]

[Insert Text](#)

3.25. Length of Relationship.

The City expects to establish a long-term relationship with its Fire Station Alerting System Service Provider in order to permit costs and fees to be distributed properly over a sufficient time period. For purposes of this RFP and the Service Provider's Proposal, assume an initial term of three (3) years, with the City having an option to renew for two (2) additional consecutive one (1) year terms thereafter.

4. PROPOSAL FORMAT.

The City desires all Proposals to be identical in format in order to facilitate comparison. While the City's format may represent departure from the Service Provider's preference, the City requires strict adherence to the format. The Proposal will be in the format described below:

- a. Cover letter;
- b. Executive Summary;
- c. Background and Experience as requested in **Section 5**;
- d. Proposed Solution as requested in **Section 3 & 4**;
- e. Financial Information as requested in **Section 5**;
- f. The "Addenda Receipt Confirmation" set forth in **Section 7**, Form Two;
- g. The "Proposal Submission" set forth in **Section 7**, Form Three;
- h. The "Pricing Worksheet" set forth in **Section 7**, Form Four;
- i. The "Proposal Certification" set forth in **Section 7**, Form Five; and
- j. Exceptions to the Remainder of the RFP.

All Proposals shall be 8 1/2" x 11" format with all standard text no smaller than eleven (11) points. All submissions should use one-sided copying and be bound in a three ring binder with tab dividers corresponding to the content requirements specified below. Proposals must also include a compact disk including the entire Proposal.

Service Providers are required to organize the information requested in this RFP in accordance with the format outlined. Failure of the Service Provider to organize the information required by this RFP as outlined may result in the City, at its sole discretion, deeming the Proposal non-responsive to the requirements of this RFP. The Service Provider, however, may reduce the repetition of identical information within several sections of the Proposal by making the appropriate cross-references to other sections of the Proposal. Appendices for certain technical or financial information may be used to facilitate Proposal preparation.

4.1. Proposal Content.

4.1.1. Cover Letter.

The Proposal must include a letter of transmittal attesting to its accuracy, signed by an individual authorized to execute binding legal documents on behalf of the Service Provider as outlined in **Section 1.6.3**. The cover letter shall provide the name, address, telephone and facsimile numbers of the Service Provider along with the name, title, address, telephone and facsimile numbers of the executive that has the authority to contract with the City. The cover letter shall present the Service Provider's understanding of the Project, a summary of the approach to be undertaken to perform the Services, as well as a summary of the costs to provide the Services.

Each Service Provider shall make the following representations and warranty in its Proposal Cover Letter, the falsity of which might result in rejection of its Proposal: **"The information contained in this Proposal or any part thereof, including its Exhibits, Schedules, and other documents and instruments delivered or to be delivered to the City, is true, accurate, and complete. This Proposal includes all information necessary to ensure that the statements therein do not in whole or in part mislead the City as to any material facts."**

4.1.2. Executive Summary.

The Service Provider shall submit an executive summary, which outlines its Proposal, including the proposed general management philosophy. The executive summary shall, at a minimum, include an identification of the proposed project team, responsibilities of the project team, and a summary of the proposed Services. This section should highlight aspects of this Proposal, which make it superior or unique in addressing the needs of the City.

- 4.1.3. Background and Experience.
The Service Provider shall provide a concise description of the company, including origin, state of incorporation, background, and current size as requested in **Section 5**. Include information concerning general organization and staffing as well as experience with similar Fire Station Alerting System projects as described in **Section 3**.
- 4.1.4. Proposed Solution.
Given the purpose of this project and the City's goals as stated in this RFP, provide a creative solution to meet such goals. Following is a framework and questions to guide your organizations suggested solution. Please address the following as completely as possible. **If you wish to add supplemental information, it shall be labeled "Supplemental Information."**
- 4.1.4.1. Process.
What steps will your organization take to ensure that the transition and implementation for the Project runs smoothly?
- 4.1.4.2. Transition Plan.
The Company shall prepare and submit to the City for approval a comprehensive and detailed Transition Plan, which describes in detail all tasks and resources associated with the transition of Fire Station Alerting System to the Company (the "Transition Plan") with minimum disruption to the City's operations. The Transition Plan is subject to the terms set forth in **Section 8** of this RFP.
- 4.1.4.3. Project Plan.
Prepare and submit a Project Plan to describe, to the best of your ability, all times, tasks and resources associated with the performance of Services. The Project Plan is subject to the terms set forth in **Section 8** of this RFP.
- 4.1.4.4. Risk Management.
Describe the risks associated with this contract. What contingencies have you built in to mitigate those risks?
- 4.1.4.5. Requirements.
Service Provider must complete **Section 3** starting with **Section 3.8 through 3.24**. You must mark comply, comply with modifications, optional, alternative or exception and then explain in detail your solution.
- 4.1.4.6. Pricing.
The City is requesting firm fixed price Contract for three (3) years plus two (2) one (1) year contract extensions. Pricing **MUST** include all aspects of the Project.
- 4.1.5. Required Forms.
To be deemed responsive to this RFP, Service Providers must complete in detail, all Proposal Forms listed in this **Section 4**, items numbered **f through i**.
- 4.1.6. Exceptions to the RFP.
Exceptions must be submitted in accordance with **Section 1.6.19** of this RFP. If exceptions are not identified in your Proposal they may not be considered during Contract negotiation and could result in Proposal being rejected from further consideration. If legal council needs to review the Contract before your Company can sign, reviews must be completed before your Proposal is submitted.

5. SERVICE PROVIDER'S BACKGROUND AND EXPERIENCE.

Please answer the following questions as completely as possible, placing your answer immediately after the question to which it applies. **If you wish to add supplemental information, it shall be labeled "Supplemental Information."**

5.1. Official Name.

Provide the legal name and address of the company and state of incorporation submitting the proposal. Also identify all subcontractors or joint venture partners.

5.2. Service Provider Background.

Provide an overview and history of your company. How long has the company been providing Services to local governments? Describe the organization and ownership. Include an organization chart.

5.3. Proposing Organization's Structure.

- a. Describe your total organization, including any parent companies, subsidiaries, affiliates, and other related entities;
- b. Describe the ownership structure of your organization, including any significant or controlling equity holders;
- c. Provide a management organization chart of your overall organization, showing director and officer positions and names and the reporting structure. Provide detailed information for the Fire Station Alerting System business segments of your organization, showing the reporting structures within these segments and among these segments and the overall organization; and
- d. Describe any organizational changes such as divestitures, acquisitions, or spin-offs involving your Fire Station Alerting System business segments that have occurred in the latest two (2) years or are anticipated in the future.

5.4. Analytical Approach.

The evaluation of financial viability of the Service Providers was developed with one primary goal in mind: to protect the City from risk of default by a selected Service Provider due to financial instability. Various analytical techniques will be used to assess the financial strength and stability of each Service Provider, focusing on profitability, solvency, and efficiency. The analysis will include an evaluation of specific financial indices and ratios in an effort to maximize objectivity and provide measures that are more directly comparable among Service Providers.

Other factors which may impact the financial position of a Service Provider, or which provide additional evidence of the financial strength of a Service Provider, will also be assessed. These factors include years of experience in providing similar Services, and demonstration of the ability to obtain sufficient levels of liability and property damage insurance.

Relevant information regarding recent litigation and bankruptcy filings, which may materially affect a Service Provider's financial position, will be examined. In addition to credit ratings and credit reports, bank and vendor references will be used to evaluate the credit worthiness of each Service Provider.

5.5. Guarantor.

The nature of the relationship between the Service Provider and its guarantor is crucial to protect the City in the event that the contracting Service Provider defaults on its obligations. If the parent company of a proposing Service Provider is serving as the guarantor, then the parent company **must indicate in a letter its willingness to guarantee all contractual obligations of the Service Provider.** If the Company that is serving as guarantor has a relationship with the Service Provider other than a parent/subsidiary relationship, then a detailed explanation of all past and present relationships between the Service Provider and its

guarantor must be provided, in addition to a letter from the guarantor indicating its willingness to guarantee all contractual obligations of the Service Provider.

Any financial information requested of the Service Provider in the following section must similarly be provided for the guarantor. In the event of a joint submission or Proposal, all proposing entities must provide statements specifying the extent to which each entity will act as guarantor and provide all relevant financial documents for all entities involved in the joint venture. Additionally, if there is more than one (1) guarantor, then the guarantors must be jointly and separately obligated.

5.6. Requests for Financial Information.

The Service Provider must have the financial information requested in this **Section 5.6** readily available and have the ability to provide it to the City, **without exception**, within twenty-four (24) hours upon the City's request during the Proposal evaluation process.

DO NOT INCLUDE THE FINANCIAL INFORMATION REQUESTED IN THIS SECTION WITH YOUR PROPOSAL SUBMISSION.

If your Company does not have the audited financial statements requested, it is the responsibility of the Company to provide the City with information of sufficient quantity and with verifiable sources to ascertain that the Company is financially capable of performing the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

Upon request, please furnish the following financial information for the proposing Service Provider(s), guarantor(s), and any sub-contractor included as having a significant role (defined as providing more than fifteen percent (15%) of the services) in providing Services to the City:

- a. Include in the statement of guarantor(s), as described in Section 5.5. Guarantor, evidence of the ability of the guarantor to meet the short-term funding needs of this project;
- b. Evidence that demonstrates the ability to obtain the insurance as required in **Section 8**. Such insurance should provide coverage in the stated amount for each occurrence of bodily injury and for each occurrence of property damage with coverage for products/completed operations, personal injury liability, and contractual liability;
- c. Annual audited financial reports for each of the past five (5) fiscal years, prepared in accordance with Generally Accepted Accounting Principles (GAAP), and all relevant notes;
- d. The most recent Form 10-K and Form 10-Q filed with the Securities and Exchange Commission (SEC); or, if the contractor is not regulated by the SEC, then the most recent quarterly financial report.
- e. Description of any material adverse changes in financial position within the past five (5) years; any material changes in the mode of conducting business; any bankruptcy proceedings, mergers, acquisitions, takeovers, joint ventures, and/or divestitures within the past five (5) years. In addition, provide a clear and definitive statement of the following:
 - Years of providing similar Services by the Service Provider and/or predecessor organization;
 - Whether or not the Service Provider (and/or predecessor, guarantor or subcontractor) has declared bankruptcy within the last five (5) years;
 - Description of the financial impact of any past or pending legal proceedings and judgments, as identified in **Section 5.8** that could materially affect the Service Provider's financial position or ability to provide Services to the City. This

information will be reviewed and assessed in accordance with the information provided by the Service Provider, in the above referenced Section;

- All credit reports, credit bulletins, and any other published statements by the most recognized agencies (Standard & Poors Rating Group, Moody, Investor Services, Dun & Bradstreet, and Value Line) that have been issued or published about the entity within the past five (5) years;
- The prospectus or offering statement for the entity's latest security or equity offering;
- The company name, contact person, telephone number, and 704-632-8255 of at least two (2) references from bank or institutional lenders which have extended credit to the entity in the past five (5) years; or if the entity has not applied for credit in the past five (5) years, the contact person's name, email address, telephone number, and fax number of at least two (2) references from banks with which the entity conducts business;
- The company name, contact person, email address, telephone number, and fax number of at least two (2) credit references from suppliers/vendors; and
- Any additional information, which the Service Provider believes, is appropriate to fully reflect the financial strength of the entity.

Failure to provide such information is cause for rejection of the Service Provider Proposal at the sole discretion of the City. For any subcontractor providing more than fifteen percent (15%) of the Services, the City reserves the right, at its sole discretion, to reject the subcontractor if it fails to meet minimum financial requirements. In the event the City's Evaluation Committee rejects the subcontractor, the Contractor must assume the responsibilities of the subcontractor or find a replacement satisfactory to the Evaluation Committee.

5.7. Proposed Project Team.

If the Service Provider's proposal submission will be from a team composed of more than one (1) company or if any subcontractor will provide more than fifteen percent (15%) of the Services, all participating companies must be identified. Provide a description, which includes the teaming relationships, form of partnership, each team member's contribution, and the experience of each team member, which qualifies them to fulfill their responsibility. Provide descriptions and references for the projects on which team members have previously collaborated.

5.8. Past or Pending Judgments.

For purposes of this Section, the term "Related Entity" means any parent, subsidiary, affiliate or guarantor of the Service Provider. For all matters involving the Service Provider providing products or services to local, state or federal government, submit declarations of the current status of any past or pending criminal, civil, or administrative litigation against the Service Provider or any Related Entity. For all matters involving the Service Provider providing products or services to local, state or federal government, in addition, submit declarations of the current status of all pending criminal, civil or administrative litigation that commenced within the past five (5) years in North America, whether or not it involves local governments, against the Service Provider or Related Entity. (For the purpose of the declarations, current officer, shall be defined to include those individuals who are presently serving or who have served within the past two (2) years as an officer of the company.) State whether there are any cases pending against the Service Provider, a Related Entity, officer of either, that, if adversely resolved, would pose a material risk of insolvency to either the Service Provider or Guarantor or materially affect the Service Provider's or Guarantor's ability to perform their obligations.

The respondent may choose not to submit records for matters that were resolved prior to the time that the subsidiary or affiliate became associated with the parent company, as long as that subsidiary or affiliate will not be involved in the provision of Services to the City. All records for subsidiaries or affiliates of the parent company that may be involved in the provision of Services to the City must be included.

The City reserves the right to request additional information to explain any of the above citations/violations.

5.9. Financial and Legal Considerations.

The Service Provider must have the financial information requested in this **Section 5.9** readily available and have the ability to provide it to the City, **without exception**, within twenty-four (24) hours upon the City's request during the Proposal evaluation process.

DO NOT INCLUDE THE FINANCIAL INFORMATION REQUESTED IN THIS SECTION WITH YOUR PROPOSAL SUBMISSION.

If the audited financial statements requested in this section are not available, it is the responsibility of the Company to provide the City with information of sufficient quantity and with verifiable sources to ascertain that each entity identified is financially capable of performing the Services required by the Company in performance of the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

- a. For each entity identified in **Section 5.3a**, specify the entity's total revenue, number of employees, products and services, affiliated companies, and other descriptive information;
- b. For each entity identified in **Section 5.3a**, provide relevant documents that describe the entity's financial status, such as audited financial statements, annual reports, or 10-K reports, and the DUNS number; and
- c. If your Company does not have the audited financial statements requested above, it is the responsibility of the Company to provide the City with information of sufficient quantity and with verifiable sources to ascertain that the Company is financially capable of performing the Services described in this RFP. Failure to provide adequate financial information may result in the exclusion of your Proposal from the procurement process.

5.10. Management Approach.

- a. Describe your organization's customer service philosophy and describe how it is communicated and reinforced throughout the organization;
- b. Describe your organization's continuous improvement program and how your current customers benefit from your service improvements; and
- c. Describe your organization's experiences in adapting to changing technologies.

5.11. Personnel Management.

- a. Describe the key individuals, along with their qualifications, professional certifications and experience that would comprise your organization's team for providing Services to the City;
- b. Explain how your organization ensures that personnel performing technical support services are qualified and proficient;
- c. Describe your organization's approach, policies, and experience with respect to deployment of your personnel; and
- d. Has your organization been the subject of a dispute or strike by organized labor within the last five (5) years? Describe the circumstances and the resolution of the dispute.

5.12. References.

Provide an organization name, address, contact name, email address and contact telephone number for three (3) customers of comparable size and scope of service that your Company has been under contract with to provide Fire Station Alerting System for during the past two (2) years.

6. PROPOSAL EVALUATION CRITERIA.

Proposals will be evaluated based on the Service Provider's ability to meet the performance requirements of this RFP. This section provides a description of the evaluation criteria that will be used to evaluate the Proposals. To be deemed responsive, it is important for the Service Provider to provide appropriate detail to demonstrate satisfaction of each criterion and compliance with the performance provisions outlined in this RFP. The Service Provider's Proposal will be the primary source of information used in the evaluation process. Proposals must contain information specifically related to the proposed Services and requested herein. Failure of any Service Provider to submit information requested may result in the elimination of the Proposal from further evaluation.

Proposals will be assessed to determine the most comprehensive, competitive and best value solution for the City based on, but not limited to, the criteria below. The City reserves the right to modify the evaluation criteria or waive portions thereof. Proposals will be evaluated on the following major categories:

- a. Qualifications, Experience and Approach;
- b. Financial Qualifications;
- c. Cost Effectiveness and Value; and
- d. Acceptance of the Terms of the Contract.

6.1. Qualifications, Experience and Approach.

Service Providers will be evaluated based upon their understanding, experience and qualifications in performing the same or substantially similar Services, as reflected by its experience in performing such Services. The evaluation will include references regarding work for organizations with needs similar to the City's, and the feasibility of the Service Provider's approach for the provision of the Services.

6.2. Financial Qualifications.

This criterion includes an evaluation of the financial qualifications of the Service Provider. The evaluation will take into account the financial strength of the Service Provider and its ability to meet the long-term financial requirements of the Contract.

The Internal Audit Division of the City will evaluate the Proposal responses and give an opinion to the evaluation team as to the financial strength of each Service Provider based on the financial information submitted in accordance with **Section 5**.

6.3. Cost Effectiveness and Value.

Under this criterion, Proposals will be compared in terms of the most reasonable, and or most effective pricing options. The Evaluation Committee will also take into consideration any indirect costs associated with the Services and administration of the Agreement.

6.4. Acceptance of the Terms of the Contract.

The City will evaluate the Proposals for compliance with the terms, conditions, requirements, and specifications stated in this RFP including the sample contract language provided in **Section 8**. Regardless of exceptions taken, Service Providers shall provide pricing based on the requirements and terms set forth in this RFP. Exceptions shall be identified in accordance with **Section 1.6.19** of this RFP.

REQUIRED FORM 1 - REQUEST FOR PROPOSALS ACKNOWLEDGEMENT

The Service Provider hereby certifies receipt of the Request for Proposals for the City of Charlotte, North Carolina RFP # 269-2009-120, Fire Station Alerting System. This form should be completed upon receipt of the City's Request for Proposals and faxed in time for the City to receive it by or before **DECEMBER 3, 2008**. Please fax the completed Request for Proposals Acknowledgement Form to the attention of:

Billy Belcher
Procurement Services Division
Fax: 704-632-8255

Date: _____

Authorized Signature: _____

Title: _____

Company Name: _____

Contact Name: _____

Contact E-mail address: _____

Please check the appropriate space below and provide the requested information:

_____ **We plan on submitting a Proposal**

_____ **We do not plan on submitting a Proposal**

Reason: _____

REQUIRED FORM 2 - ADDENDA RECEIPT CONFIRMATION

RFP # 269-2009-120

Fire Station Alerting System

Please acknowledge receipt of all addenda by including this form with your Proposal. All addenda will be posted to www.ips.state.nc.us.

ADDENDUM #:

**DATE ADDENDUM
DOWNLOADED FROM NC IPS:**

I certify that this proposal complies with the General and Specific Specifications and conditions issued by the City except as clearly marked in the attached copy.

(Please Print Name)

Date

Authorized Signature

Title

Company Name

REQUIRED FORM 3 - PROPOSAL SUBMISSION FORM

RFP # 269-2009-120

Fire Station Alerting System

This Proposal is submitted by:

Service Provider Name: _____

Representative (printed): _____

Representative (*signed*): _____

Address: _____

City/State/Zip: _____

Telephone: _____

(Area Code) Telephone Number

Facsimile: _____

(Area Code) Fax Number

It is understood by the Service Provider that the City reserves the right to reject any and all Proposals, to make awards on all items or on any items according to the best interest of the City, to waive formalities, technicalities, to recover and re-bid this RFP. Proposal is valid for one hundred and eighty (180) calendar days from the Proposal due date.

Service Provider

Date

Authorized Signature

Please type or print name

Section 7
Required Forms – Form Four

REQUIRED FORM 4 - PROPOSAL CERTIFICATION

AGREEMENT TITLE: **Fire Station Alerting System**

SERVICE PROVIDER: _____

The undersigned Service Provider hereby certifies and agrees that the following information is correct:

1. In preparing its proposal, the Service Provider has considered all proposals submitted from qualified, potential subcontractors and suppliers; and has not engaged in or condoned prohibited discrimination.
2. For purposes of this section, *prohibited discrimination* means discrimination against any person, business or other entity in contracting or purchasing practices on the basis of race, color, sex, or national origin. Without limiting the foregoing, *prohibited discrimination* also includes retaliating against any person, business or other entity for reporting any incident of prohibited discrimination.
3. Without limiting any other provision of the solicitation for proposals on this project, it is understood and agreed that, if this certification is false, such false certification will constitute grounds for the City to reject the bid submitted by the Bidder on this project and to terminate any contract awarded based on such bid.
4. As a condition of contracting with the City, the Service Provider agrees to maintain documentation sufficient to demonstrate that it has not discriminated in its solicitation or selection of subcontractors. The Service Provider further agrees to promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation and selection of subcontractors. Failure to maintain or failure to provide such information constitutes grounds for the City to reject the bid submitted by the Service Provider or terminate any contract awarded on such bid.

NAME OF FIRM

BY: _____
SIGNATURE OF AUTHORIZED OFFICIAL

TITLE

ATTEST/WITNESS:

Secretary/Name of Witness

Sworn to and subscribed before me this
____ day of _____, YEAR.

Notary Public Commission expires: _____

EXHIBIT A – SAMPLE CITY CONTRACT

STATE OF NORTH CAROLINA
COUNTY OF MECKLENBURG

MASTER CONTRACT FOR
SYSTEM INTEGRATION

This Master Contract for System Integration (the “Contract”) is entered into as of this ____ day of [MONTH], [YEAR] (the “Effective Date”), by and between [COMPANY NAME], a [STATE OF INCORPORATION] corporation doing business in North Carolina (the “Company”), and the City of Charlotte, North Carolina (the “City”).

Statement of Background and Intent

- A. The City sent out a “Request for Proposals for a Fire Station Alerting System, Number 269-2009-120 dated **November 7, 2008** requesting proposals from qualified vendors to provide the City with a fully functional Fire Station Alerting System per City requirements. This Request for Proposals, together with all attachments and amendments, is referred to herein as the “RFP”.
- B. In response to the RFP, the Company submitted to the City a proposal dated **December 19, 2008**. This proposal, together with all attachments and separately sealed confidential trade secrets, is referred to herein as the “Proposal.”
- C. The City and the Company have negotiated and now desire to enter into an arrangement for the Company to design, supply, install, customize, configure, test, commission and maintain a Fire Station Alerting System for the City, all in accordance with the terms and conditions set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and conditions contained in this Contract, the parties agree as follows:

A G R E E M E N T

- 1. EXHIBITS.** The following Exhibits and Appendices are attached to this Contract and incorporated into and made a part of this Contract by reference:

Exhibit A:	Price Schedule and List of System Components
Exhibit B:	Milestone Plan
Exhibit C:	Scope of Implementation Services
Exhibit D:	Project Schedule
Exhibit E:	Scope of Maintenance Services
Exhibit F:	License
Exhibit G:	Mutual Confidentiality Agreement
	Iron Mountain Source Code Agreement

Each reference to the Contract shall be deemed to include all Exhibits and Appendices. Any conflict between language in an Exhibit or Appendix to this Contract and the main body of this Contract shall be resolved in favor of the main body of this Contract. Each reference to [COMPANY NICKNAME] in the Exhibits and Appendices shall be deemed to mean the Company.

- 2. DEFINITIONS.** The following terms shall have the following meanings for purposes of this Contract (including all Exhibits):

- 2.1. **“Affiliates”** means all departments or units of the City and all other governmental units, towns, boards, committees or municipalities for which the City processes data or performs Services that involve the System.

- 2.2. **“Company Software”** and **“[COMPANY NICKNAME] Software”** shall be used interchangeably to mean all pre-existing software owned by the Company or any of its Related Entities which the Company provides or is required to provide under this Contract, and all New Releases and New Versions of the foregoing.
- 2.3. **“Current Release”** means the latest version of the Software offered for general commercial distribution at a given point in time, including all New Releases.
- 2.4. **“Customizations”** means all newly-developed software created by the Company and/or its subcontractors pursuant to this Contract, including but not limited to all interfaces between different components of the System and between the System and other systems. Customizations will not include New Releases and New Versions that become part of the company Software.
- 2.5. **“Defect”** means any failure of the System or any component thereof to fully conform to the Specifications and Requirements. A non-conformity is not a Defect if it results directly from the City’s improper use or damage, unless it is reasonably likely that such non-conformity would have occurred on that or another occasion even without the City’s improper use or damage.
- 2.6. **“Deliverables”** means all tasks, reports, information, designs, plans and other items that the Company is required to complete and deliver to the City in connection with this Contract, other than the Products.
- 2.7. **“Documentation”** means all written, electronic, or recorded works, that describe the use, functions, features, or purpose of the System or any component thereof, and which are published or provided to the City by the Company or its subcontractors, including without limitation all end user manuals, training manuals, guides, program listings, data models, flow charts, logic diagrams, and other materials related to or for use with the System.
- 2.8. **“Effective Date”** means the date stated in the first sentence of this Contract.
- 2.9. **“Hardware”** means all hardware, equipment and materials that the Company actually provides or is required to provide under the terms of this Contract (whether now or in the future).
- 2.10. **“Implementation Services”** means the Services described in **Exhibit C**.
- 2.11. **“License”** means the license agreement attached to this Contract as **Exhibit F**.
- 2.12. **“Maintenance Services”** means the Services described in **Exhibit E**.
- 2.13. **“Milestones”** means the benchmarks of performance (consisting of an identified deadline for the completion of specific services and/or the acceptance of identified Deliverables), as specified in **Exhibit B** and the Project Plan.
- 2.14. **“New Version”** means any products, parts of products, improvements, additions or materials not included in the Products as of the Effective Date that significantly modify the Products to provide a function or feature not originally offered or an improvement in function. New Versions are typically identified by a new version number that changes the number left of the decimal point. For example, a change from Version 5.0 to Version 6.0 would likely represent a New Version.
- 2.15. **“New Release”** means any change issued by the Company or its subcontractors to the Products or the Documentation that is not a New Version. New Releases are typically identified by changing the number to the right of the decimal point (e.g., going from Version 5.1 to 5.2).
- 2.16. **“Project”** refers to the project for the Company to design, supply, install, configure, test, commission and maintain the System for the City in accordance with the terms and conditions in this Contract.

- 2.17. **"Project Plan"** means the detailed plan for implementation of the System as described in **Exhibit C**, in the form accepted in writing by the City.
- 2.18. **"Products"** means all Software and all Hardware (both as herein defined).
- 2.19. **"Project Schedule"** means the Project Schedule attached to this Contract mean **Exhibit D**.
- 2.20. **"Related Entity"** means any person or entity that is directly or indirectly in control of, controlled by, or under common control with the Company, including but not limited to any parent, subsidiary, and affiliate entities. The word, "control," as used in this context, shall mean ownership of a sufficient percentage (not necessarily a majority) of the outstanding voting interests in an entity so as to afford effective control of the management of the entity.
- 2.21. **"Services"** means all services that the Company provides or is required to provide under this Contract, including all Implementation Services and all Maintenance Services now or in the future.
- 2.22. **"Software"** means: (i) all Company Software; (ii) all Customizations; (iii) all Third Party Software; and (iv) all New Releases and New Versions of any of the foregoing.
- 2.23. **"Source Code"** means the human readable form of a computer program and all algorithms, flow charts, logic diagrams, structure descriptions or diagrams, data format or layout descriptions, pseudo-code, code listings (including comments), and other technical documentation relating to such program.
- 2.24. **"Specifications and Requirements"** means all definitions, descriptions, requirements, criteria, warranties and performance standards relating to the Products or System which are set forth or referenced in: (i) this Contract, including the Appendix; (ii) the main body of this Contract; (iii) other Exhibits to this Contract; (iv) the Documentation; and (v) any functional and/or technical specifications which are published or provided by the Company or its licensors or suppliers from time to time with respect to all or any part of the Products or the System. Any conflict between the requirements or specifications referenced in subparts (i), (ii) (iii) (iv) or (v) of this definition shall be resolved in the order of priority in which they are listed; provided, however, that the City may, at its option, disregard the order of listing to resolve any such conflicts in a manner that takes advantage of new or enhanced functionality or features.
- 2.25. **"System"** means a Fire Station Alerting System to be designed, supplied, installed, configured, tested, commissioned and maintained by the Company under this Contract, including but not limited to all Products.
- 2.26. **"System Acceptance"** means acceptance by the City of the complete System as provided in **Exhibit C** of this Contract.
- 2.27. **"Third Party Software"** means all software included within the System or required for the System to function in full compliance with the Specifications and Requirements that is provided by the Company under this Contract and was not manufactured, developed or otherwise created by the Company, any Related Entity of the Company, or any of the Company's subcontractors.
- 2.28. **"Warranty Period"** means the twelve (12)-month period following System Acceptance by the City.
- 2.29. **"Workaround"** means a reasonable change in the procedures followed or data supplied to avoid a Defect that does not impair the performance of the System or increase the cost of using the System.
- 2.30. **"Work Product"** means the Deliverables and all other programs, algorithms, reports, information, designs, plans and other items developed by the Company in connection with this Contract, and all partial, intermediate or preliminary versions of any of the foregoing.

3. **GENERAL DESCRIPTION OF SERVICES.** The Company shall provide the Implementation Services described in **Exhibit C** and any other design, development, supply, installation, consulting, System integration, Software development, project management, training, technical and other Services necessary to deliver and implement the System so that it is in production at the City in full compliance with the Specifications and Requirements on or before **[PLANNED ACCEPTANCE DATE]**. The Company shall also provide the Maintenance Services described in **Exhibit E**. The Company shall perform the Implementation Services on site at the City's facilities in Charlotte, North Carolina, except as otherwise stated in this Contract or agreed in writing by the City.
4. **COMPENSATION.**
- 4.1. **PURCHASE PRICE.** The City shall pay the Company a fixed price of **[PURCHASE PRICE]** (the "Purchase Price") as full and complete consideration for the satisfactory performance of all the requirements of this Contract other than Maintenance Services beyond the Warranty Period ("Extended Maintenance Services"). The Purchase Price is allocated to the Products and Services in accordance with **Exhibit A**, and shall be payable in accordance with **Exhibit B** (the "Milestone Plan"). The amount of the Purchase Price referenced in this Section constitutes the total fees, charges and expenses payable to the Company under this Contract for everything other than the Extended Maintenance Services, and shall not be increased except by a written instrument duly executed by the City, which expressly states that it amends this Section of this Contract.
- 4.2. **MILESTONE PAYMENT PLAN.** The Company shall invoice the City for the Purchase Price in accordance with the Milestone Plan attached as **Exhibit B**. The Company shall not invoice the City for any Products or Services within a particular Milestone until all Products and Services required in connection with that Milestone have been fully delivered, completed and accepted by the City.
- 4.3. **MAINTENANCE FEES FOR EXTENDED MAINTENANCE.** The Maintenance Services shall be provided to the City at no charge for a period of one (1) year after System Acceptance (the "Warranty Period"). After the Warranty Period, the City shall have three (3) plus two (2) one (1)-year options to purchase Extended Maintenance Services from the Company at a price of **[ANNUAL MAINTENANCE FEE]** per year (the "Maintenance Fees." The City shall be entitled to exercise its option to buy Extended Maintenance Service for a given one (1)-year option period by: (a) providing written notice to the Company at any time prior to or within sixty days following the beginning of such one-year option period; or (b) payment of the Company's invoice for such one-year option period. The Company shall invoice the City for Maintenance Fees on an annual basis, but not more than sixty (60) days before the one (1)-year extended maintenance term being billed for begins.
- 4.4. **INVOICES.**
- 4.4.1. Each invoice sent by the Company shall detail all Services, Products and Deliverables performed and delivered which are necessary to entitle the Company to the requested payment.
- 4.4.2. The Company shall mail all invoices to:
- City of Charlotte**
Attn: FIRE
Accounts Payable-10th Floor
600 East Fourth Street
Charlotte, NC 28202
- 4.5. **DUE DATE OF INVOICES.** Payment of invoices shall be due within thirty (30) days after the later of: (a) receipt of an undisputed properly submitted invoice by the City; or (b) acceptance by the City of the Milestone to which the invoice applies. For Extended Maintenance Service fees, only subpart (a) of the preceding sentence shall apply.

- 4.6. *ADDITIONAL PURCHASES.* For a period of eighteen (18) months after the date of this Contract, the City shall have the right to purchase and the Company shall sell to the City all Hardware and Software listed in **Exhibit A** as optional items at the prices set forth in **Exhibit A**.
- 4.7. *PRE-CONTRACT COSTS.* The City shall not be charged for any Services or other work performed by the Company prior to the Effective Date.
- 4.8. *AUDIT.* During the term of this Contract and for a period of two years after termination of this Contract, the City shall have the right to audit, either itself or through an independent auditor, all books and records and facilities of the Company necessary to evaluate Company's compliance with the terms and conditions of this Contract or the City's payment obligations. The City shall pay its own expenses, relating to such audits, but shall not have to pay any expenses or additional costs of the Company. However, if non-compliance is found that would have cost the City in excess of \$10,000 but for the audit, then the Company shall be required to reimburse the City for the cost of the audit.
5. **TIME IS OF THE ESSENCE.** Time is of the essence in having the Company perform all Services and deliver all Products within the time frames provided by this Contract and the Project Plan, including all completion dates, response times and resolution times (the "Completion Dates"). Except as specifically stated in this Contract, there shall be no extensions of the Completion Dates. All references to days in this Contract (including the Exhibits) shall refer to calendar days rather than business days, unless this Contract provides otherwise for a specific situation.
6. **PRODUCT PURCHASE AND DELIVERY.**
- 6.1. *COMPANY TO PROVIDE ALL HARDWARE AND SOFTWARE.* As part of the Purchase Price, the Company shall provide all Hardware, Software, labor, equipment and materials required by the City in order for the Fire Station Alerting System to perform in accordance with the Specifications and Requirements, except for those items that are specifically listed in **Exhibit C** as a City responsibility.
- 6.2. *DELIVERY SCHEDULE.* The Company shall deliver the Products by the delivery dates set forth in the Project Schedule, as may be modified by the parties' mutual consent in the Project Plan. Delivery shall be to various City Fire facilities unless otherwise agreed in writing by the City.
- 6.3. *TITLE / RISK OF LOSS.* Except for loss or damage occurring in connection with the Company's performance of services under this Contract, title and risk of loss of all Hardware shall pass to the City upon delivery of the Hardware to the City's premises.
- 6.4. *DELIVERY AND INSTALLATION COSTS.* All delivery and installation costs associated with the Hardware and the Software shall be borne by the Company.
- 6.5. *SOFTWARE LICENSE FOR EMBEDDED SOFTWARE.* The Company grants to the City the right to use all software which is embedded in or included with the Hardware ("Embedded Software") to the full extent necessary for the City to use the Hardware in the manner contemplated by this Contract. The City agrees to be bound by the terms and limitations of any licenses for Embedded Software which have been: (i) provided to the City in writing preceding delivery of such Hardware; and (ii) accepted by the City in writing. Notwithstanding the foregoing, in no event shall any terms or conditions of such licenses restrict the City from using the Hardware in the manner contemplated by this Contract, nor shall such terms or conditions in any way modify the City's rights under the License.
- 6.6. *TRANSFER OF WARRANTIES.* Without limiting the Company's obligations to provide warranty Services or the Maintenance Services, the Company hereby assigns and transfers to the City all of the Company's warranties from the Company's suppliers covering the Hardware, the Embedded Software and Third Party Software. The Company will provide copies of such warranties to the City with delivery of the applicable Hardware or Software.

While the Company shall be entitled to make arrangements to have such warranty work performed by the supplier, nothing herein shall relieve the Company of its obligation to correct Defects in the Hardware or the Software or to meet the time deadlines provided in this Contract for the correction of such Defects.

- 6.7. **REPLACEMENT EQUIPMENT.** The Company shall execute all documents necessary to evidence the City's title to the Hardware, including Hardware replaced pursuant to warranty provisions or pursuant to the Maintenance and Support Contract.

7. DUTY OF COMPANY TO IDENTIFY AND REQUEST INFORMATION, PERSONNEL AND FACILITIES.

Throughout the duration of this Contract, the Company shall identify and request in writing from the City Project Manager all City resources that may reasonably be required by the Company to perform the Services (the "City Resources"), including all information, City staff, equipment, facility or materials needed by the Company. The Company shall request City Resources far enough in advance to allow adequate planning and availability on the City's part and to avoid unnecessary expense or overtime. Notwithstanding the foregoing, the Company shall not be entitled to request that the City provide City Resources other than those identified as a City responsibility in **Exhibit C** (with respect to the Implementation Services) or **Exhibit E** (with respect to the Maintenance Services) unless the City can do so at no significant cost. If the City Project Manager fails to provide within a reasonable time period a City Resource that this Contract requires the City to provide, the Company will notify the responsible City Key Business Executive of such failure. The Company shall not be relieved of any failure to perform under this Contract by virtue of the City's failure to provide any City resource: (i) that the Company failed to identify and request in writing from the City pursuant to this Section; or (ii) which the City is not required to provide pursuant to this Contract. To the extent the Company is excused from performance under the terms of this Section, the Company will only be excused for delays that occur after it has given notice to the City Key Business Executive of the City's failure.

- 8. REMOVAL, REPLACEMENT AND PROMOTION OF COMPANY PERSONNEL.** The City will have the right to require the removal and replacement of any personnel of the Company or the Company's subcontractors who are assigned to provide Services to the City. The City shall be entitled to exercise such right in its sole discretion by providing written notice to the Company.

The City must approve in writing any hires or transfers of personnel to "Key Personnel" positions on the Project, and the City shall have the right to interview all personnel that the Company proposes to hire or transfer to such positions. As used in this Contract, the term "Key Personnel" shall mean the Company Project Manager, and any other personnel of the Company or its subcontractors who are identified as Key Personnel in an Exhibit to the Contract, or whom the City from time to time designates in writing to the Company as fulfilling a key role in the Project. Unless approved by the City in writing, the Company will not: (i) remove the Company's Key Personnel from the Project or permit its subcontractors to remove Key Personnel from the Project; or (ii) materially reduce the involvement of the Company's Key Personnel in the Project or allow its subcontractors to materially reduce the involvement of Key Personnel in the Project.

The Company will replace any personnel who leave the Project with equivalently qualified persons. The Company will replace such personnel as soon as reasonably possible, and in any event within thirty days after the Company first receives notice that the person will be leaving the Project.

If the Company gets more than 7 days behind in completing any Deliverable required by this Contract or the Project Plan, the Company will devote all personnel assigned to the Project to working on the Project on a first priority basis.

As used in this Contract, the term "personnel" includes all staff provided by the Company or its subcontractors, including but not limited to Key Personnel.

9. REPRESENTATIONS AND WARRANTIES OF COMPANY.

9.1. *SPECIFIC WARRANTIES.* Company represents, warrants and covenants that:

- (a) For a period of twelve (12) months after System Acceptance (the “Warranty Period”), the System will fully comply with the Specifications and Requirements, and all federal, state and local laws, regulations, codes and guidelines that apply to it (including any changes to such laws, etc.).
- (b) All Products and Services delivered after System Acceptance shall fully conform to the Specifications and Requirements for a period of one year after acceptance of such Product or Service by the City.
- (c) For as long as the City exercises its options to purchase Extended Maintenance Services, the System will fully comply with the Specifications and Requirements, and all federal, state and local laws, regulations, codes and guidelines that apply to it (including changes to such laws, etc.).
- (d) All Software provided by the Company or its subcontractors is and will be free of viruses, worms and Trojan horses, and any code designed to disable the Software because of the passage of time, alleged failure to make payments due, or otherwise (except for documented security measures such as password expiration functions);
- (e) All Software and Hardware is and will be Year 2000 Compliant (as defined below).
- (f) In accordance with the North Carolina electronic data-processing records law N.C.G.S. §132-6-1:
 - 9.1.f.1. All Software and Documentation provided by the Company or its subcontractors will have sufficient information and capabilities to enable the City to permit the public inspection and examination and to provide electronic copies of public records stored, manipulated or retrieved by the System; and
 - 9.1.f.2. All Software and Documentation provided by the Company or its subcontractors will have sufficient information to enable the City to create an index containing the following information with respect to each database used by the System without extraordinary commitments of staff or resources: (i) annotated list of data fields: name, description, and restricted field indicator; (ii) description of the format or record layout; (iii) frequency with which the database is updated; (iv) list of any data fields to which public access is restricted; (v) description of each form in which the database can be copied or reproduced; (vi) title of the database; (vii) owner of the data; (viii) narrative description of the database; (ix) person creating the index; and (x) purpose of the database. The Company agrees that the City may copy and disclose the information listed above in response to requests for database information under the North Carolina General Statutes.
- (g) All Documentation for the Products and the System is and will be in all material respects complete and accurate, and will enable data processing professionals and other City employees with ordinary skills and experience to utilize the Products and the System for the expressed purpose for which they are being acquired by the City;
- (h) All work performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards and shall be performed in a professional and workmanlike manner by staff with the necessary skills, experience and knowledge;
- (i) Neither the Services, nor the Products nor any Deliverables provided by the Company under this Contract will violate, infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party, or any other third party rights (including without limitation non-compete agreements); and

- (j) All Hardware shall be delivered and shall remain free and clear of all liens and encumbrances. The Company shall not place or allow to be placed on the Software any third party lien or encumbrance of any kind at any time which could conceivably interfere with the City's use of the Software or the Company's maintenance of the Software.

For purposes of this Contract, the term "Year 2000 Compliant" means that software will: (a) store all date-related information and process all data interfaces involving dates in a manner that unambiguously identifies the century, for all date values before, during and after the Year 2000; (b) calculate, sort, report and otherwise operate correctly and in a consistent manner for all date information processed by the software, whether before, during or after the Year 2000; (c) calculate, sort, report and otherwise operate correctly, in a consistent manner and without interruption regardless whether the date on which the software is operated or executed is before, during or after the Year 2000; (d) report and display all dates with a four-digit date so that the century is unambiguously identified; and (e) handle all leap years, including but not limited to the Year 2000 leap year, correctly;

Prior to System Acceptance, the Company will correct all Defects in the System and the components thereof within the time frames set forth in **Exhibit C** and the Project Plan. During the Warranty Period and at all times during which the City has purchased Extended Maintenance Services, the Company will correct all Defects and provide Maintenance Services pursuant to the **Exhibit E**.

If the Company breaches the warranty set forth in **Section 9.1(a)**, the City, without limiting any other remedies it may have under this Contract or at law, shall be entitled to an immediate refund of all amounts paid to the Company or its subcontractors or licensors under this Contract.

9.2. **ADDITIONAL WARRANTIES.** Company further represents and warrants that:

- (a) It is a corporation duly incorporated, validly existing and in good standing under the laws of the state of **[STATE OF INCORPORATION]**;
- (b) It has all the requisite corporate power and authority to execute, deliver and perform its obligations under this Contract;
- (c) The execution, delivery, and performance of this Contract have been duly authorized by the Company;
- (d) No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Contract;
- (e) In connection with its obligations under this Contract, it shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses; and
- (f) The Company shall not violate any agreement with any third party by entering into or performing this Contract.

10. REMEDIES.

10.1. **RIGHT TO COVER.** If the Company fails to meet any completion date or resolution time set forth in this Contract (including the Exhibits) or the Project Plan, the City may take any of the following actions with or without terminating this Contract, and in addition to and without limiting any other remedies it may have:

- (a) Employ such means as it may deem advisable and appropriate to perform itself or obtain the Services from a third party until the matter is resolved and the Company is again able to resume performance under this Contract; and

- (b) Deduct any and all expenses incurred by the City in obtaining or performing the Services from any money then due or to become due the Company and, should the City's cost of obtaining or performing the services exceed the amount due the Company, collect the amount due either from the Company.
- 10.2. **RIGHT TO WITHHOLD PAYMENT.** If the Company breaches any provision of this Contract, the City shall have a right to withhold all payments due to the Company until such breach has been fully cured.
- 10.3. **SPECIFIC PERFORMANCE AND INJUNCTIVE RELIEF.** The Company agrees that monetary damages are not an adequate remedy for the Company's failure to provide the Products, Services or System as required by this Contract, nor could monetary damages be the equivalent of the performance of such obligation. Accordingly, the Company hereby consents to an order granting specific performance of such obligations of the Company in a court of competent jurisdiction within the State of North Carolina. The Company further consents to the City obtaining injunctive relief (including a temporary restraining order) to assure performance in the event the Company breaches the Contract.
- 10.4. **SETOFF.** Each party shall be entitled to setoff and deduct from any amounts owed to the other party pursuant to this Contract all damages and expenses incurred as a result of the other party's breach of this Contract.
- 10.5. **LIQUIDATED DAMAGES.** The City and the Company acknowledge and agree that the City will incur costs if the Company fails to meet one or more of the time frames for delivering Services and Products under this Contract and the Project Plan, including all completion dates, response times and resolution times (the "Completion Dates"). The parties further acknowledge and agree that the costs that the City might reasonably be anticipated to accrue as a result of such failures are difficult to ascertain due to their indefiniteness and uncertainty.

Liquidated Damages shall be negotiated with Service Provider during contract award.

The liquidated damages referenced above are not intended to compensate the City for any costs other than inconvenience and delay in the implementation or loss of use of the System. The existence or recovery of such delay costs shall not preclude the City from recovering other amounts which the City can document as being attributable to a failure to meet such Completion Dates, including but not limited to the cost of internal staff hours or amounts paid to third parties (such as other vendors or independent contractors) as a result of such failure.

- 10.6. **OTHER REMEDIES.** Upon breach of this Contract, each party may seek all legal and equitable remedies to which it is entitled. The remedies set forth herein shall be deemed cumulative and not exclusive and may be exercised successively or concurrently, in addition to any other available remedy.
- 11. REGENERATION OF LOST OR DAMAGED DATA.** With respect to any data which has been lost or damaged due to an act or omission of the Company or its subcontractors, the Company shall, at its own expense: (a) promptly replace or regenerate such data from the City's machine-readable supporting material, or (b) obtain a new machine-readable copy of lost or damaged data from the City's data sources. The Company shall further reload and restore such data at the Company's expense. The Company shall not be responsible for any expenses that are the result of the failure of the City to maintain backup data in accordance with the City's regular schedule.
- 12. TERMINATION.**
- 12.1. **TERM.** Unless terminated in accordance with its terms, this Contract shall commence on the Effective Date, and shall continue until the License and/or Maintenance Services has terminated.
- 12.2. **TERMINATION WITHOUT CAUSE.** The City may terminate this Contract at any time without cause by giving thirty (30) days written notice to the Company. As soon as practicable after receipt of a written notice of termination without cause, Company shall

submit a statement to the City showing in detail the Services performed under this Contract through the date of termination. In the event of termination without cause pursuant to this Section, the City agrees to: (i) pay the Company a pro rata amount of the purchase price for Implementation Services rendered through the termination date based on percentage of completion of the applicable payment Milestones; and (ii) return all Hardware which the City elects not to keep, and (iii) pay the Company for any Hardware received by the City which the City has elected to keep, or which has been damaged by the City so as to preclude return. The forgoing payment obligation is contingent upon: (i) the Company having fully complied with **Section 12-7**; and (ii) the Company having provided the City with written documentation reasonably adequate to verify the number of hours of Services rendered by each person through the termination date and the percentage of completion of each task.

12.3. **TERMINATION FOR DEFAULT BY EITHER PARTY.** By giving written notice to the other party, either party may terminate this Contract upon the occurrence of one or more of the following events:

- (a) The other party violates or fails to perform any covenant, provision, obligation, term or condition contained in this Contract, provided that, unless otherwise stated in this Contract, such failure or violation shall not be cause for termination if both of the following conditions are satisfied: (i) such default is reasonably susceptible to cure; and (ii) the other party cures such default within thirty (30) days of receipt of written notice of default from the non-defaulting party; or
- (b) The other party ceases to do business as a going concern, makes an assignment for the benefit of creditors, admits in writing its inability to pay debts as they become due, files a petition in bankruptcy or has an involuntary bankruptcy petition filed against it (except in connection with a reorganization under which the business of such party is continued and performance of all its obligations under this Contract shall continue), or if a receiver, trustee or liquidator is appointed for it or any substantial part of other party's assets or properties.

Any notice of default pursuant to this **Section 12.3** shall identify this Section of this Contract and shall state the party's intent to terminate this Contract if the default is not cured within the specified period.

12.4. **ADDITIONAL GROUNDS FOR DEFAULT TERMINATION BY THE CITY.** By giving written notice to the Company, the City may also terminate this Contract upon the occurrence of one or more of the following events (which shall each constitute grounds for termination without a cure period and without the occurrence of any of the other events of default previously listed):

- (a) Failure of the Company to complete and deliver a particular Product, Deliverable or Service by the completion date set forth in this Contract (including the Exhibits) or the Project Plan;
- (b) Failure of the Company to correct all Defects and deficiencies identified by the City with respect to a Deliverable within the time period set forth in **Exhibit C**;
- (c) Failure of the Company to correct all items identified in a Rejection Notice within the time period specified in **Exhibit C**;
- (d) Failure of the Company to resolve a problem within the time set forth in **Exhibit E** regarding Maintenance Services (whether during the Warranty Period or during Extended Maintenance Services);
- (e) The Company makes or allows to be made any material written misrepresentation or provides any materially misleading written information in connection with this Contract, Company's Proposal, or any covenant, agreement, obligation, term or condition contained in this Contract; or

- (f) The Company takes or fails to take any action which constitutes grounds for immediate termination under the terms of this Contract, including but not limited to failure to obtain or maintain the insurance policies and endorsements as required by this Contract, or failure to provide the proof of insurance as required by this Contract.
- 12.5. **TERMINATION FOR FAILURE TO AGREE ON PROJECT PLAN.** If the parties have not finalized and agreed upon the Project Plan by the date set forth in the Project Schedule, the City shall be entitled to terminate this Contract and receive a refund of all amounts paid to the Company.
- 12.6. **CROSS TERMINATION.** A default by the City under **Exhibit E** shall constitute grounds for terminating the Maintenance Services if not cured as provided above, but shall not constitute a basis for the Company to terminate the License or any other obligations the Company may have under this Contract. A default by the City under **Exhibit C** shall constitute grounds for terminating the Implementation Services if not cured as provided above, but shall not constitute a basis for the Company to terminate the License, the Maintenance Services or any other obligations the Company may have under this Contract. Otherwise, a default by either party under any Exhibit or Attachment of this Contract, or the main body of this Contract, shall be regarded as a default under the entire Contract
- 12.7. **OBLIGATIONS UPON EXPIRATION OR TERMINATION.** Upon expiration or termination of this Contract, the Company shall promptly (a) return to the City all computer programs, files, documentation, data, media, related material and any other material and equipment that is owned by the City; (b) deliver to the City all Work Product; (c) allow the City or a new service provider access to the systems, software, infrastructure, or processes of the Company that are necessary to mitigate the Services to a new service provider; and (d) refund to the City all pre-paid Maintenance Fees based on a pro-rata as determined by the City.
- 12.8. **NO SUSPENSION.** In the event that the City disputes in good faith an allegation of default by the Company, notwithstanding anything to the contrary in this Contract, the Company agrees that it will not terminate this Contract or suspend or limit the delivery of Products or Services or any warranties or repossess, disable or render unusable any Software supplied by the Company, unless (i) the parties agree in writing, or (ii) an order of a court of competent jurisdiction determines otherwise.
- 12.9. **AUTHORITY TO TERMINATE.** The following persons are authorized to terminate this Contract on behalf of the City: (a) the City Manager, any Assistant City Manager or any designee of the City Manager; (b) the Key Business Executive of the City Key Business Unit responsible for administering this Contract.
- 13. TRANSITION SERVICES UPON TERMINATION.** Upon termination or expiration of this Contract, the Company shall cooperate with the City to assist with the orderly transfer of the Services, functions and operations provided by the Company hereunder to another provider or to the City as determined by the City in its sole discretion. The transition services that the Company shall perform if requested by the City include but are not limited to:
- 13.1. Working with the City to jointly develop a mutually agreed upon transition services plan to facilitate the termination of the Services;
- 13.2. Notifying all affected service providers and subcontractors of the Company of transition activities;
- 13.3. Performing the transition service plan activities;
- 13.4. Answering questions on an as-needed basis; and
- 13.5. Providing such other reasonable services needed to effectuate an orderly transition to a new system.

- 14. CHANGES.** In the event changes to the Services (collectively “Change”), become necessary or desirable to the parties, the parties shall follow the procedures set forth in this Section. A Change shall be effective only when documented by a written, dated agreement executed by both parties which expressly references this Contract (a “Change Statement”). The Change Statement shall set forth in detail: (i) the Change requested, including all modifications of the duties of the parties; (ii) the reason for the proposed Change; and (iii) a detailed analysis of the impact of the Change on the results of the Services and time for completion of the Services, including the impact on all Milestones and delivery dates and any associated price.

In the event either party desires a Change, the Project Manager for such party shall submit to the other party’s Project Manager a proposed Change Statement. If the receiving party does not accept the Change Statement in writing within ten (10) days, the receiving party shall be deemed to have rejected the Change Statement. If the parties cannot reach agreement on a proposed Change, the Company shall nevertheless continue to render performance under this Contract in accordance with its (unchanged) terms and conditions.

Changes that involve or increase in the amounts payable by the City may require execution by a Key Business Executive, the City Manager, or an Assistant City Manager; depending on the amount. Some increases may also require approval by City Council.

15. INTELLECTUAL PROPERTY.

15.1. *COMPANY OWNERSHIP.* The Company shall have exclusive ownership of intellectual property rights in all Company Software and related Documentation, including but not limited to all copyrights, patents and trade secrets (collectively “Company Intellectual Property”). The Company grants the City a perpetual, royalty-free, non-exclusive license to use and copy the Company Intellectual Property for all purposes of the City and the Affiliates in accordance with the terms of the License.

15.2. *CITY OWNERSHIP.* The City shall have exclusive ownership of all intellectual property rights in all Customizations, Deliverables and other Work Product created by the Company or its subcontractors in connection with this Contract, including all modifications, Updates, Enhancements and Documentation relating thereto, and including but not limited to all copyrights, patents and trade secrets (collectively “City Intellectual Property”). The Company hereby assigns and transfers all rights in the City Intellectual Property to the City. The Company further agrees to execute and deliver such assignments and other documents as the City may later require to perfect, maintain and enforce the City’s rights as sole owner of the City Intellectual Property, including all rights under patent and copyright law. The Company hereby appoints the City as attorney in fact to execute all such assignments and instruments and agree that its appointment of the City as an attorney in fact is coupled with an interest and is irrevocable.

The City Intellectual Property shall not include Deliverables created by the Company for other customers prior to the date of this Contract, provided that the Company shall notify the City in writing of any Deliverables that are not City Intellectual Property at the time it submits such Deliverables. The City grants the Company a royalty-free, non-exclusive license to use and copy the City Intellectual Property to the extent necessary to perform this Contract. The Company shall not be entitled to use the City Intellectual Property for other purposes without the City’s prior written consent, and shall treat the City Intellectual Property as “Confidential Information” under the Confidentiality Contract.

15.3. *COMPANY WILL NOT SELL OR DISCLOSE DATA.* The Company will treat as Confidential Information under the Confidentiality Agreement all data provided by or processed for the City in connection with this Contract or use of the Software (including metadata). Such data shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Contract.

16. OTHER OBLIGATIONS OF COMPANY.

- 16.1. *WORK ON CITY'S PREMISES.* The Company will ensure that its employees and agents shall, whenever on the City's premises, obey all instructions and directions issued by the City with respect to rules, regulations, policies and security procedures applicable to work on the City's premises. The Company agrees that its personnel and the personnel of its subcontractors will comply with all such rules, regulations and security procedures when on the City's premises.
- 16.2. *DAMAGE TO EQUIPMENT OR FACILITIES.* The Company shall be responsible for any damage to or loss of the City's equipment or facilities arising out of the negligent or willful act or omission of the Company or its subcontractors.
- 16.3. *RESPECTFUL AND COURTEOUS BEHAVIOR.* The Company shall assure that its employees interact with County employees and with the public in a courteous, helpful and impartial manner. All employees of the Company in both field and office shall refrain from belligerent behavior and/or profanity. Correction of any such behavior and language shall be the responsibility of the Company.

17. NEW TECHNOLOGY. The parties recognize that technology may change during the term of this Contract. Accordingly, the parties agree as follows:

- 17.1. The Company shall provide the City with prompt written notice of all upgrades, enhancements and modifications to the Products or Services that become available during the term of this agreement (the "New Technology").
- 17.2. Unless specified in writing by the City in a specific instance, all Products provided by the Company will be the latest, most recent version available as of the time of installation. The Company will schedule installation of all Products as late in the process as is reasonably practicable to meet the Project Plan deadlines. Unless specified in writing by the City in a specific instance, the Company will continually update the Software after installation at no additional cost and it shall be a condition of System Acceptance that all Software be the latest, most current version available as of the date of System Acceptance.
- 17.3. If the Company causes a delay in the Project of six months or more, it shall be a condition of System Acceptance (at the City's option) that the Hardware is the latest, most recent version available as of six months prior to the date of System Acceptance.
- 17.4. Notwithstanding anything contained in this Contract to the contrary, the City shall have the option to reject proposed New Technology and to accept less than the most current version of the Products by providing written notice to the Company.
- 17.5. The Company shall make the New Technology available to the City at no additional cost if required by this Contract, or if New Technology is generally commercially available to the Company's customers at no additional cost. Notwithstanding the foregoing, there shall be no additional charges for providing the most recent version of the Hardware as required by **Section 17.2 or 17.3.**
- 17.6. The Company shall provide additional details and estimated prices to the City at the request of the City, if the City wants to consider further the possible addition of the New Technology.
- 17.7. Notwithstanding anything contained herein to the contrary, neither the acceptance of proposed New Technology by the City nor the amendment of this Contract to incorporate New Technology shall relieve the Company from its obligations under this Contract to satisfy the Specifications and Requirements.

18. INDEMNIFICATION. To the fullest extent permitted by law, the Company shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred any of them as a result of any claims, demands, lawsuits, actions, or proceedings: (i) alleging violation, misappropriation or infringement of any

copyright, trademark, patent, trade secret or other proprietary rights with respect to the Work or any products or deliverables provided to the City pursuant to this Contract (“Infringement Claims”); (ii) seeking payment for labor or materials purchased or supplied by the Company or its subcontractors in connection with this Contract; or (iii) arising from the Company’s failure to perform its obligations under this Contract, or from any act of negligence or willful misconduct by the Company or any of its agents, employees or subcontractors relating to this Contract, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible; or (iv) arising from the Company’s violation of any law (including without limitation immigration laws); or (v) any claim that the Company or an employee or subcontractor of the Company is an employee of the City, including but not limited to claims relating to worker’s compensation, failure to withhold taxes and the like. For purposes of this Section: (a) the term “Indemnitees” means the City and each of the City’s officers, officials, employees, agents and independent contractors (excluding the Company); and (b) the term “Charges” means any and all losses, damages, costs, expenses (including reasonable attorneys’ fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

If an Infringement Claim occurs, the Company shall either: (i) procure for the City the right to continue using the affected Product or Service; or (ii) repair or replace the infringing Product or Service so that it becomes non-infringing, provided that the performance of the overall Product(s) and Service(s) provided to the City shall not be adversely affected by such replacement or modification. If the Company is unable to comply with the preceding sentence within thirty days after the City is directed to cease use of a Product or Service, the Company shall promptly refund to the City all amounts paid under this Contract.

19. INSURANCE. Throughout the term of this Contract, the Company shall comply with the insurance requirements described in this Section. In the event the Company fails to procure and maintain each type of insurance required by this Contract, or in the event the Company fails to provide the City with the required certificates of insurance, the City shall be entitled to terminate this Contract immediately upon written notice to the Company.

19.1. General Requirements.

- 19.1.1. The Company shall not commence any work in connection with this Contract until it has obtained all of the types of insurance set forth in this **Section 19**, and the City has approved such insurance. The Company shall not allow any subcontractor to commence work on its subcontract until all insurance required of the subcontractor has been obtained and approved.
- 19.1.2. All insurance policies required by **Section 19.1** shall be with insurers qualified and doing business in North Carolina recognized by the Secretary of State and the Insurance Commissioner’s Office. The Company shall name the City as an additional insured under the commercial general liability policy required by **Section 19.1**
- 19.1.3. The Company’s insurance, except for Automobile Liability, shall be primary of any self-funding and/or insurance otherwise carried by the City for all loss or damages arising from the Consultant’s operations under this agreement. The Company and each of its subcontractors shall and does waive all rights of subrogation against the City and each of the Indemnitees (as defined in **Section 18**).
- 19.1.4. The City shall be exempt from, and in no way liable for any sums of money that may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Company and/or subcontractor providing such insurance.
- 19.1.5. Within 3 days after execution of this Contract, the Company shall provide the City with certificates of insurance documenting that the insurance requirements set forth in this **Section 19** have been met, and that the City be given thirty (30) days’ written

notice of any intent to amend coverage or make material changes to or terminate any policy by either the insured or the insurer. The Company shall further provide such certificates of insurance to the City at any time requested by the City after execution of this Contract, and shall provide such certificates within five (5) days after the City's request. The City's failure to review a certificate of insurance sent by or on behalf of the Company shall not relieve the Company of its obligation to meet the insurance requirements set forth in this Contract.

- 19.1.6. Should any or all of the required insurance coverage be self-funded/self-insured, the Company shall furnish to the City a copy of the Certificate of Self-Insurance or other documentation from the North Carolina Department of Insurance.

If any part of the work under this contract is sublet, the subcontractor shall be required to meet all insurance requirements set forth in this **Section 19**, provided that the amounts of the various types of insurance shall be such amounts as are approved by the City in writing. However, this will in no way relieve the Consultant from meeting all insurance requirements or otherwise being responsible for the subcontractor

- 19.2. *Types of Insurance.* The Company agrees to purchase and maintain during the life of this Contract with an insurance company, acceptable to the City, authorized to do business in the State of North Carolina the following insurance:

- 19.2.1. Automobile Liability. Bodily injury and property damage liability covering all owned, non-owned and hired automobiles for limits of not less than \$1,000,000 bodily injury each person, each accident and \$1,000,000 property damage, or \$1,000,000 combined single limit - bodily injury and property damage.
- 19.2.2. Commercial General Liability. Bodily injury and property damage liability as shall protect the Company and any subcontractor performing work under this Contract, from claims of bodily injury or property damage which arise from operation of this Contract, whether such operations are performed by the Company, any subcontractor, or anyone directly or indirectly employed by either. The amounts of such insurance shall not be less than \$1,000,000 bodily injury each occurrence/aggregate and \$1,000,000 property damage each occurrence/aggregate, or \$1,000,000 bodily injury and property damage combined single limits each occurrence/aggregate. This insurance shall include coverage for products, operations, personal injury liability and contractual liability, assumed under the indemnity provision of this Contract.
- 19.2.3. Errors and Omissions Liability Insurance as shall protect the Company and his employees from claims alleging the failure to provide the services required by this Contract. This policy shall be specific to the performance of this Contract and shall provide limits of \$1,000,000 each occurrence/aggregate. Proof of this policy of insurance shall be submitted to the City's Risk Management Division before acceptance.
- 19.2.4. Electronic Errors and Omissions. If the risks typically covered by Electronic Errors and Omissions Insurance are not covered by the Company's Errors and Omissions Insurance, the Company shall purchase an electronic errors and omissions insurance policy having aggregate limits of \$1,000,000 and occurrence limits of \$750,000, respectively.
- 19.2.5. Workers' Compensation Insurance. The Company shall meet the statutory requirements of the State of North Carolina, \$100,000 per accident limit, \$500,000 disease per policy limit, \$100,000 disease each employee limit.

The City shall be named as additional insured under the commercial general liability insurance for operations or services rendered under this Contract. Certificates of all required insurance

shall be furnished to the City and shall contain the provision that the City will be given thirty (30) day written notice of any intent to amend or terminate by either the insured or the insuring company.

- 20. RELATIONSHIP OF THE PARTIES.** The relationship of the parties established by this Contract is solely that of independent contractors, and nothing contained in this Contract shall be construed to (i) give any party the power to direct or control the day-to-day activities of the other; (ii) constitute such parties as partners, joint venturers, co-owners or otherwise as participants in a joint or common undertaking; (iii) make either party an agent of the other for any purpose whatsoever, or (iv) give either party the authority to act for, bind, or otherwise create or assume any obligation on behalf of the other. Nothing herein shall be deemed to eliminate any fiduciary duty on the part of the Company to the City that may arise under law or under the terms of this Contract.
- 21. SUBCONTRACTING.** The Company shall not subcontract any of its obligations under this Contract without the City's prior written consent. In the event the City does consent in writing to a subcontracting arrangement, Company shall be the prime contractor and shall remain fully responsible for performance of all obligations which it is required to perform under this Contract. Any subcontract entered into by Company shall name the City as a third party beneficiary.
- 22. CONFIDENTIALITY AGREEMENT.** The parties acknowledge that they have executed and entered into a Confidentiality Agreement prior to the execution of this Contract (the "Confidentiality Agreement"), and that they are bound by all terms contained in the Confidentiality Agreement with respect to any Confidential Information which either of them obtains access to in connection with this Contract.
- 23. NON-DISCRIMINATION.** The City has adopted a Commercial Non-Discrimination Policy that is described in Section 2, Article V of the Charlotte City Code, and is available for review on the City's website (the "Non-Discrimination Policy"). The Company agrees to comply with the Non-Discrimination Policy, and consents to be bound by the award of any arbitration conducted thereunder. As part of such compliance, the Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, suppliers, or commercial customers in connection with a City contract or contract solicitation process, nor shall the Company retaliate against any person or entity for reporting instances of such discrimination. The Company shall provide equal opportunity for subcontractors, vendors and suppliers to participate in all of its subcontracting and supply opportunities on City contracts, provided that nothing contained in this clause shall prohibit or limit otherwise lawful efforts to remedy the effects of marketplace discrimination that has occurred or is occurring in the marketplace. The Company understands and agrees that a violation of this clause shall be considered a material breach of this Contract and may result in termination of this Contract, disqualification of the Company from participating in City contracts or other sanctions.

As a condition of entering into this Contract, the Company agrees to: (a) promptly provide to the City all information and documentation that may be requested by the City from time to time regarding the solicitation, selection, treatment and payment of subcontractors in connection with this Contract; and (b) if requested, provide to the City within sixty days after the request a truthful and complete list of the names of all subcontractors, vendors, and suppliers that Company has used on City contracts in the past five years, including the total dollar amount paid by Contractor on each subcontract or supply contract. The Company further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Non-Discrimination Policy as set forth in Section 2, Article V of the City Code, to provide any documents relevant to such investigation that are requested by the City, and to be bound by the award of any arbitration conducted under such Policy. The Company understands and agrees that violation of this clause shall be considered a material breach of this Contract and may result in contract termination, disqualification of the Company from participating in City contracts and other sanctions.

The Company further agrees to provide to the City from time to time on the City's request, payment affidavits detailing the amounts paid by Company to subcontractors and suppliers in connection with

this Contract within a certain period of time. Such affidavits shall be in the format provided by the City.

24. DRUG-FREE WORKPLACE. The City is a drug-free workplace employer. The Company hereby certifies that it has or it will within thirty (30) days after execution of this Contract:

- 24.1. notify employees that the unlawful manufacture, distribution, dispensation, possession, or use of controlled substance is prohibited in the workplace and specifying actions that will be taken for violations of such prohibition.
- 24.2. establish a drug-free awareness program to inform employees about (i) the dangers of drug abuse in the workplace, (ii) the Company's policy of maintaining a drug-free workplace, (iii) any available drug counseling, rehabilitation, and employee assistance programs, and (iv) the penalties that may be imposed upon employees for drug abuse violations;
- 24.3. notify each employee that as a condition of employment, the employee will (i) abide by the terms of the prohibition outlines in (a) above, and (ii) notify the Company of any criminal drug statute conviction for a violation occurring in the workplace not later than five days after such conviction;
- 24.4. impose a sanction on, or requiring the satisfactory participation in a drug counseling, rehabilitation or abuse program by, an employee convicted of a drug crime;
- 24.5. make a good faith effort to continue to maintain a drug-free workplace for employees; and
- 24.6. require any party to which it subcontracts any portion of the work under the contract to comply with the provisions of this Section.

A false certification or the failure to comply with the above drug-free workplace requirements during the performance of this Contract shall be ground for suspension, termination or debarment.

25. SOURCE CODE. Company shall cause the Source Code for all Software, New Releases and New Versions to be delivered to the source code escrow agent identified in the Source Code Escrow Contract, at the times set forth therein. The City shall be given such Source Code under the conditions stated in the Source Code Escrow Contract. The Company shall deliver the Source Code for all Customizations to the City prior to System Acceptance. The Company shall deliver the Source Code for all New Releases and New Versions to Customizations to the City within ten (10) days after delivery of each New Release and New Version.

26. NOTICES. Any notice, consent or other communication required or contemplated by this Contract shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the address set forth below. Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

- 26.1. Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment, or waiver of any provision of this Contract shall be sent to:

For the City

Name:

City of Charlotte
600 East Fourth Street
Charlotte, NC 28202

Phone:

Fax:

E-Mail --@ci.charlotte.nc.us

For the Company

Company:

Address:

Phone:

With Copy To

Cindy White
City Attorney's Office
600 East Fourth Street
Charlotte, NC 28202
Phone: 704.336.3012
Fax: 704.336.8854
E-Mail – cwhite@ci.charlotte.nc.us

- 26.2. All other notices shall be sent to the other party's Project Manager at the most recent address provided in writing by the other party.

27. PERFORMANCE BOND. Within ten business days after execution of this Contract, the Company shall provide the City with a performance bond for the full amount of the Purchase Price (the "Performance Bond"). The Performance Bond shall be from a U.S. federally registered surety or bonding agency that is registered to conduct business in the State of North Carolina.

The Performance Bond shall be conditioned upon the full and faithful performance of each and every term, condition and provision of this Contract, and shall be subject to City approval as to form and content. The Company shall keep the Performance Bond for two years after System Acceptance, provided that on the one-year anniversary date of System Acceptance the Company may reduce the amount of Performance Bond by forty percent. The Company shall pay all premiums chargeable for the bond, and the bond shall contain a provision that it shall not terminate prior to thirty (30) days after written notice to that effect is given to the City.

In the event the Company fails to maintain the Performance Bond as required by this Contract, the City may terminate this Contract for default and, without limiting any other remedies it may have, obtain a refund of all amounts paid to the Company under this Contract.

28. MISCELLANEOUS.

- 28.1. *ENTIRE AGREEMENT.* This Contract, (including all Exhibits and Attachments), the Confidentiality Agreement and the Source Code Escrow Contract constitute the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings, or agreements between the parties with respect to such subject matter. This Contract supersedes all prior agreements, negotiations, representations and proposals, written or oral.
- 28.2. *AMENDMENT.* No amendment or change to this Contract shall be valid unless in writing and signed by the party against whom enforcement is sought.
- 28.3. *GOVERNING LAW AND VENUE.* North Carolina law shall govern the interpretation and enforcement of this Contract, and any other matters relating to this Contract (all without regard to North Carolina conflicts of law principles). All legal actions or other proceedings relating to this Contract shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By execution of this Contract, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.
- 28.4. *BINDING NATURE AND ASSIGNMENT.* This Contract shall bind the parties and their successors and permitted assigns. Neither party may assign this Contract without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void. For purposes of this Section, a Change in Control, as defined in **Section 28.12** shall constitute an assignment.
- 28.5. *NO DELAY DAMAGES.* Under no circumstances shall the City be liable to the Company for any damages arising from delay, whether caused by the City or not.

- 28.6. *FORCE MAJEURE PRIOR TO SYSTEM ACCEPTANCE.* The following force majeure provisions shall apply to the Company prior to System Acceptance and to the City at all times. Neither party shall be liable for any failure or delay in the performance of its obligations pursuant to this Contract, and such failure or delay shall not be deemed a default of this Contract or grounds for termination hereunder if all of the following conditions are satisfied:
- (a) if such failure or delay:
 - 1. could not have been prevented by reasonable precaution;
 - 2. cannot reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans, or other means; and
 - 3. if, and to the extent, such failure or delay is caused, directly or indirectly, by fire, flood, earthquake, hurricane, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions or court order.
 - (b) An event which satisfies all of the conditions set forth above shall be referred to as a “Force Majeure Event.” Upon the occurrence of a Force Majeure Event, the affected party shall be excused from any further performance of those of its obligations which are affected by the Force Majeure Event for as long as (a) such Force Majeure Event continues and (b) the affected party continues to use reasonable efforts to recommence performance whenever and to whatever extent possible without delay.
 - (c) Upon the occurrence of a Force Majeure Event, the affected party shall promptly notify the other by telephone (to be confirmed by written notice within five (5) days of the inception of the failure or delay) of the occurrence of a Force Majeure Event and shall describe in reasonable detail the nature of the Force Majeure Event. If any Force Majeure Event prevents the Company from performing its obligations for more than fifteen (15) days, the City shall have the right to terminate this Contract by written notice to the Company.
 - (d) Notwithstanding anything contained herein to the contrary, strikes, slow-downs, walkouts, lockouts, and industrial disputes of the Company or its subcontractors shall not constitute “Force Majeure Events” and are not excused under this provision. The parties expressly acknowledge that Year 2000-related interruptions in operations or in the supply of the products or services of the Company or its not excused under this provision. Nothing in the preceding Force Majeure provisions shall relieve the Company of any obligation it may have regarding disaster recovery, whether under this Contract or at law.
- 28.7. *FORCE MAJEURE AFTER SYSTEM ACCEPTANCE.* The following force majeure provisions shall apply to the Company after System Acceptance. After System Acceptance, the Company shall not be excused from performance under this Contract by virtue of force Majeure events. The Company shall take precautions sufficient to ensure that force Majeure events (including but not limited to fire, flood, earthquake, hurricane, elements of nature, strikes, labor disputes, terrorism and acts of God) do not result in any failure or delay in the performance of the Company’s obligations pursuant to this Contract. Failure to comply with this provision will constitute a default under this Contract, and grounds for immediate termination.
- 28.8. *SEVERABILITY.* The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Contract shall not affect the validity of the remaining portion of this Contract so long as the material purposes of this Contract can be determined and effectuated. If any provision of this Contract is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Contract shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

- 28.9. *NO PUBLICITY.* No advertising, sales promotion or other materials of the Company or its agents or representations may identify or reference this Contract or the City in any manner without the prior written consent of the City. Notwithstanding the forgoing, the parties agree that the Company may list the City as a reference in responses to requests for proposals, and may identify the City as a customer in presentations to potential customers.
- 28.10. *WAIVER.* No delay or omission by either party to exercise any right or power it has under this Contract shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Contract shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Contract shall be effective unless in writing and signed by the party waiving the rights.
- 28.11. *SURVIVAL OF PROVISIONS.* Those Sections of this Contract and the Exhibits which by their nature would reasonably be expected to continue after the termination of this Contract shall survive the termination of this Contract, including but not limited all definitions and each of the following:
- | | |
|-------------|--|
| Section 2 | Definitions |
| Section 4.6 | Additional Purchases |
| Section 4.8 | Audit |
| Section 6.5 | Software License for Embedded Software |
| Section 6.6 | Transfer of Warranties |
| Section 6.7 | Replacement Equipment |
| Section 9 | Representations and Warranties |
| Section 12 | Termination |
| Section 15 | Intellectual Property |
| Section 18 | Indemnification |
| Section 23 | Non-Discrimination |
| Section 26 | Notices |
| Section 28 | Miscellaneous |
- 28.12. *CHANGE IN CONTROL.* In the event of a change in “Control” of the Company (as defined below), the City shall have the option of terminating this Contract by written notice to the Company. The Company shall notify the City within ten days of the occurrence of a change in control. As used in this Contract, the term “Control” shall mean the possession, direct or indirect, of either (i) the ownership of or ability to direct the voting of, as the case may be fifty-one percent (51%) or more of the equity interests, value or voting power in the Company or (ii) the power to direct or cause the direction of the management and policies of the Company whether through the ownership of voting securities, by contract or otherwise.
- 28.13. *NO BRIBERY.* The Company certifies that neither it, any of its affiliates or subcontractors, nor any employees of any of the forgoing has bribed or attempted to bribe an officer or employee of the City in connection with this Contract.
- 28.14. *FAMILIARITY AND COMPLIANCE WITH LAWS AND ORDINANCES.* The Company agrees to make itself aware of and comply with all local, state and federal ordinances, statutes, laws, rules and regulations applicable to the Services. The Company further agrees that it will at all times during the term of this Contract be in compliance with all applicable federal, state and/or local laws regarding employment practices. Such laws will include, but shall not be limited to workers' compensation, the Fair Labor Standards Act (FLSA), the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and all OSHA regulations applicable to the work.
- 28.15. *TAXES.* Except as specifically stated elsewhere in this Contract, the Company shall pay all applicable federal, state and local taxes which may be chargeable against the performance of the Services.

- 28.16. *TITLES OF SECTIONS*. The section headings inserted herein are for convenience only, and are not intended to be used as aids to interpretation and are not binding on the parties.
- 28.17. *CONSTRUCTION OF TERMS*. Each of the parties has agreed to the use of the particular language of the provisions of this Contract and any questions of doubtful interpretation shall not be resolved by any rule or interpretation against the drafters, but rather in accordance with the fair meaning thereof, having due regard to the benefits and rights intended to be conferred upon the parties.

Sample City Contract Exhibit A

PRICE SCHEDULE AND
COMPONENTS KNOWN AS OF THE EFFECTIVE DATE

This Exhibit is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and [INSERT COMPANY NAME] (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI.

1. **PURCHASE PRICE.** The City shall pay the Company a fixed price of \$_____ as full and complete consideration for the performance of all obligations of the Company under the MCSI (the “Purchase Price”), other than Maintenance Services beyond the Warranty Period (“Extended Maintenance Services”). The Purchase Price is allocated to the Products and Services in accordance with this Exhibit, and shall be payable only in accordance with the Milestone Plan.
2. **MAINTENANCE FEE.** The Company shall provide the Maintenance Services at no additional charge during the Warranty Period. After the Warranty Period, the City shall have three (3) year plus two (2) (1)-year options to purchase Extended Maintenance Services a price of \$_____ per year. The City shall be entitled to exercise its option to buy Extended Maintenance Service for a given one (1)-year option period by: (a) providing written notice to the Company at any time prior to or within sixty days following the beginning of such one-year option period; or (b) payment of the Company’s invoice for such one-year option period.

3. **PURCHASE SCHEDULE FOR SOFTWARE**

<u>Item</u>	<u>Quantity</u>	<u>Price</u>
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4. **PURCHASE SCHEDULE FOR HARDWARE**

<u>Item</u>	<u>Quantity</u>	<u>Price</u>
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5. **PURCHASE SCHEDULE FOR SERVICES**

<u>Item</u>	<u>Quantity</u>	<u>Price</u>
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6. **OPTIONAL ITEMS.** The items listed below are not required under the MCSI, and are not necessary for the System or any of its components to perform in accordance with the MCSI. However, the Company has agreed that for a period of eighteen (18) months after the date of this Contract, the City shall have the right to purchase and the Company shall sell to the City the following items at the prices set forth below:

<u>Item</u>	<u>Quantity</u>	<u>Price</u>
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Nothing in this Exhibit shall be deemed to eliminate the Company’s obligation to provide alternative or updated Products to the extent required by **Exhibit C** or other provisions of the MCSI.

Sample City Contract Exhibit B

MILESTONE PLAN

This Milestone Plan is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and **[INSERT COMPANY NAME]** (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the MCSI, including but not limited to **Exhibit C**.

The Company shall invoice the City for the Purchase Price in accordance with the Milestone Plan set forth below. The Company shall not invoice the City for any Products, Services or Deliverables within a particular Milestone until all Services and Deliverables required in connection with that Milestone have been fully completed and accepted by the City.

5% (\$_____) shall be paid within thirty (30) days after execution of this Contract by both parties;

10% (\$_____) shall be paid within thirty (30) days after the later of: (i) receipt by the City of an undisputed and properly submitted invoice for completion of Phase 1 of the Project as described in **Exhibit C** (the “Define Phase”); or (ii) acceptance by the City of all Products, Services and Deliverables required in Phase 1 of the Project;

15% (\$_____) shall be paid within thirty (30) days after the later of: (i) receipt by the City of an undisputed and properly submitted invoice for completion of Phase 2 of the Project as described in **Exhibit C** (the “Design Phase”); or (ii) acceptance by the City of all Products, Services and Deliverables required in Phase 2 of the Project;

20% (\$_____) shall be paid within thirty (30) days after the later of: (i) receipt by the City of an undisputed and properly submitted invoice for completion of Phase 3 of the Project as described in **Exhibit C** (the “Build Phase”); or (ii) acceptance by the City of all Products, Services and Deliverables required in Phase 3 of the Project;

20% (\$_____) shall be paid within thirty (30) days after the later of: (i) receipt by the City of an undisputed and properly submitted invoice for completion of all tasks in Phase 4 of the Project as described in **Exhibit C** (the “Deliver Phase”); or (ii) acceptance by the City of all Products, Services and Deliverables required in Phase 4 of the Project.

30% (\$_____) shall be paid within thirty (30) days after the later of: (i) receipt by the City of an undisputed and properly submitted invoice for the completion of System Acceptance; or (ii) successful completion of System Acceptance at the conclusion of the Test Period.

Sample City Contract Exhibit C

SCOPE OF IMPLEMENTATION SERVICES

This Scope of Implementation Services is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and **[INSERT COMPANY NAME]** (the “Company”). Unless otherwise defined herein, capitalized terms in this Scope of Implementation Services shall have the same meanings as are assigned to such terms in the main body of the MCSI. Each reference to the MCSI includes this Scope of Implementation Services and all other Exhibits and Appendices to the MCSI. The Services described in this Exhibit are collectively referred to as the Implementation Services.

1. COMPANY RESPONSIBILITIES.

The Company shall design, supply, implement, install, configure, test and commission a Fire Station Alerting System that fully complies with the Specifications and Requirements. Except for the “City Responsibilities” specifically identified in this Scope of Implementation Services, the Company shall furnish all equipment, Services, Products and supplies necessary to achieve full compliance with the Specifications and Requirements. The fact that a particular service, item of equipment or material is not listed in the MCSI does not release the Company for its obligation to provide it, if such service, equipment or material is necessary to design, supply, implement, install, configure, test and commission the System so that it fully complies with the Specifications and Requirements. Without limiting or shifting to the City the obligations of the Company which are acknowledged in the preceding two sentences, the Company shall provide to the City the specific system components and services which are itemized in **Exhibit A** to the MCSI, or any newer versions that the Company is required to provide under the MCSI.

In the event any of the System components or services listed on **Exhibit A** (or any newer version that the Company is required to provide) are insufficient for the Company to deliver to the City a System which fully complies with the Specifications and Requirements, the Company shall immediately provide the City with written notice (a “Deficiency Notice”): (i) describing the deficient components and/or services and the probable impact on the System; and (ii) proposing such other or additional components or services as are necessary for the System to meet all Specifications and Requirements (the “Substitute Components/Services”). Substitute Components/Services must be equal or better in all respects to the deficient components/Services. The City shall within fifteen (15) days after receipt of a Deficiency Notice, give the Company written notice to either proceed with the current components and/or services, or to proceed with the Substitute Components and Services.

In the event the City elects to proceed with the Substitute Components and Services, the Company shall provide the Substitute Components and Services at no additional charge to the City. In the event the City elects to proceed with the current components and/or Services, the Company shall not be responsible for Defects which are solely attributable to the deficiency identified by the Company in the Deficiency Notice with respect to such components and Services.

2. PROJECT SCHEDULE.

Time is of the essence in having the Company perform the Implementation Services. The Company shall perform all Implementation Services within the time periods set forth in the Project Schedule and the Project Plan. There shall be no extensions of such time periods without the mutual written consent of both parties; provided, however, that:

- 2.1. if the City fails to complete any task assigned to it by the completion date set forth in the Project Schedule or Project Plan, and if such failure is reasonably likely to cause a delay in the completion of the remaining tasks, then the Company shall give the City written notice that its delay is causing the Company to fall behind (a “Delay Notice”). The completion dates for all remaining tasks shall be automatically extended by the number of business days between the date the City receives the Delay Notice and the date the City completes the overdue task identified in the Delay Notice;

- 2.2. if the Company fails to meet a completion date set forth in the Project Schedule or the Project Plan, the completion dates for tasks assigned to the City shall be automatically extended by the number of business days between the date the task should have been completed and the date the Company actually completes such task; and
- 2.3. the City shall in its sole discretion be entitled to postpone the Project at any time for any reason by giving written notice to the Company. This postponement shall result in the extension of all deadlines set forth in the Project Schedule, the Project Plan and the MCSI, provided that such extensions shall not total more than six (6) months in the aggregate without the Company's prior written consent.

The failure by the Company to meet a given completion date in the Project Schedule or Project Plan shall not entitle the Company to receive an extension for the completion of any other task assigned to the Company, even if such failure has caused the City to delay in completing one or more tasks as allowed under Section 3.2 above.

3. CITY PROVIDED EQUIPMENT, FACILITIES AND SERVICES.

The City shall be responsible for supplying the following equipment, services and facilities for the implementation of the System (collectively referred to herein as the "City Responsibilities"):

- 3.1. Physical space and electrical power necessary for the installation of all Products (hardware, software and interconnections) by the Company;
- 3.2. A facility to accommodate Company training of City personnel, equipped with up to **(Insert Here)** workstations at any given facility; and
- 3.3. Office facilities for up to **(Insert Here)** Company staff, consisting of
 - 3.3.1. work space (consisting of a table, desk or cube, as the City may elect);
 - 3.3.2. a telephone;
 - 3.3.3. a modem line;
 - 3.3.4. access to a copier or, in the City's discretion, City staff to make copies; and
 - 3.3.5. access to a fax or, in the City's discretion, City staff to send faxes.
- 3.4. Company staff will be allowed reasonable use of the City's break room facilities when they are on City premises. The Company's employees shall not venture outside those areas where the City Project Manager has specifically authorized them to go. Access to the City's facilities outside normal business hours is restricted; necessary access must be arranged each day as needed with the City Project Manager.
- 3.5. City staff will perform the tasks assigned to the City in this Scope of Implementation Services.

4. PROJECT MANAGERS.

- 4.1. **COMPANY PROJECT MANAGER. (Insert Here)** shall be the "Company Project Manager" under this Contract. The duties of the Company Project Manager include, but are not limited to:
 - 4.1.1. Direct the Project as the Company contact with responsibility for Project performance from initiation to closure, including planning, organizing, managing, and controlling all aspects of the Project to ensure that Project tasks are performed according to the approved Project Schedule and Project Plan.
 - 4.1.2. Coordinate and schedule all Company resource assignments.
 - 4.1.3. Identify all known items that may impact the availability of City resources during the Project, and coordinate with the City Project Manager to avoid delays.

- 4.1.4. Ensure that all necessary subcontractor commitments are in place and monitor subcontractor commitments.
- 4.1.5. Initiate and maintain Project reporting and filing systems to ensure that Project documentation is up-to-date, organized and readily accessible by appropriate Company and City staff.
- 4.1.6. Obtain from the City a system network configuration diagram and update it regularly to ensure that the system network configuration diagram accurately reflects the City architecture as it may change during the implementation of the project.
- 4.1.7. Arrange for the delivery and installation of all Products and Services in accordance with the Project Schedule.
- 4.1.8. Coordinate Company logistics for all on-site activities.
- 4.1.9. Mutually agree and clarify with the City the training logistics considerations such as schedules and classroom resources.
- 4.1.10. Provide the City Project Manager and Company upper management with the weekly progress reports described in this Scope of Implementation Services.
- 4.1.11. Maintain a “punch list” of all Defects, incomplete requirements or unresolved issues that occur over the course the Project, including date and manner of resolution.
- 4.1.12. Communicate with the City Project Manager on a daily or weekly basis, as needed, regarding Project progress and activities, and ensure adequate communication between members of the Company’s and City implementation staffs.
- 4.1.13. Monitor and follow-up to ensure that the Implementation Services are completed in compliance with the MCSI and the dates set forth in the Project Schedule and Project Plan.
- 4.1.14. Promptly consult with the City’s Project Manager when Project Plan deviations occur, and document all such plan deviations in accordance with agreed upon change control procedures;
- 4.1.15. Provide consultation and advice to the City on matters related to Project implementation strategies, key decisions and approaches, and Project operational concerns/issues, and acting as a conduit to the Company’s specialist resources that may be needed to supplement the Company’s normal implementation staff;
- 4.1.16. Act as the Company’s point of contact for all aspects of contract administration, including invoicing for services, and status reporting;
- 4.1.17. Facilitate review meetings and conferences between the City and the Company’s executives when requested by the City;
- 4.1.18. Identify and provide the City with timely written notice of all issues that may threaten the implementation, operation or performance of the System (with “timely” meaning immediately after the Company becomes aware of them);
- 4.1.19. Employ project management procedures that ensure a mutual understanding and agreement of the tasks to be completed and the schedule to be observed.
- 4.1.20. Employ project planning methods that document the City’s expectations so that there are no false starts or wasted effort.
- 4.1.21. Maintain a complete record of the Project’s history.
- 4.1.22. Ensure that adequate quality assurance procedures are in place throughout the Project, and that the System complies with the Specifications and Requirements; and

- 4.1.23. Meet with other vendors working on City technology projects as necessary to resolve problems and coordinate the work that is included within the scope of this Project.
 - 4.1.24. The Company Project Manager shall remain onsite at the City throughout the duration of the Project, except for instances where the City has specifically agreed in writing that the Company Project Manager need not be present.
- 4.2. **CITY PROJECT MANAGER. (Insert Here)** shall be the “City Project Manager” under this Contract. The duties of the City Project Manager are: (i) coordinating to fulfill the City’s obligations pursuant to this Contract; (ii) promptly responding to the Company’s Project Manager when consulted in writing or by E-mail with respect to project issues; and (3) acting as the City’s point of contact for all aspects of the Project, including contract administration and coordination of communication with the City’s staff. The City shall be allowed to change staffing for the City Project Manager position on one (1) business day’s notice to the Company.
- 4.3. In the event of vacation, illness or training, the Project Manager for each party shall appoint a designee to serve in his or her temporary absence.
- 5. **PROGRESS REPORTS.**
Throughout the Project, the Company shall prepare and submit weekly written reports to the City Project Manager. The weekly reports shall:
 - 5.1. Update the Project Plan indicating progress for each task;
 - 5.2. Identify and report the status of all tasks that have fallen behind schedule, the reason for the delay, and the projected completion date;
 - 5.3. Identify and summarize all risks and problems identified by the Company which may affect the Project;
 - 5.4. For each risk and problem, identify the action and person(s) responsible for mitigating the risk and resolving the problem;
 - 5.5. For each risk and problem identified, state the impact on the Project Plan; and
 - 5.6. Identify all personnel, equipment, facilities and resources of the City that will be required for the Company to perform the Implementation Services at least (2) weeks in advance of the need.
- 6. **REVIEW AND CORRECTION OF INTERIM DELIVERABLES.**
Upon completion of each Deliverable and Milestone, the Company shall give the City a written notice of completion. Within a reasonable time after receiving such completion notice, the City shall notify the Company in writing of the City’s acceptance or rejection of the applicable Deliverable or Milestone. The City shall be entitled to reject the Deliverable or Milestone if it fails in any way to comply with the MCSI (including this Scope of Implementation Services), or if it fails to comply with the highest industry standards, or if it contains time periods that are not reasonably attainable. If the City fails to accept or reject the Deliverable or Milestone within a reasonable time period, then: (a) the Deliverable or Milestone shall be deemed rejected; (b) the Company shall give the City written notice of such failure to accept or reject; and (c) work on all contingent tasks shall cease until all issues about the Deliverable or Milestone have been resolved and the City has issued an acceptance. As used in this paragraph, the term “reasonable time” means the time reasonably necessary to review and evaluate the Deliverable or Milestone based on its length, complexity and the number of people who need to review it. Under no circumstances shall the “reasonable time” be less than fifteen business days, unless the City has agreed in writing to a shorter review time.

If the City rejects a Deliverable or Milestone, the Company shall: (a) act diligently and continuously to correct all Defects and deficiencies identified by the City, and (b) immediately upon completing such corrections give the City a written, dated certification that all Defects and deficiencies have been corrected (the “Certification”). In the event the Company fails to correct all Defects and

deficiencies identified in by the City and provide a Certification within a reasonable time after receipt of the Rejection Notice (which time shall in no event exceed fifteen business days), the City shall be entitled to terminate this Contract for default without further obligation to the Company.

Upon the City's receipt of the corrected Deliverable or Milestone, or a Certification, whichever is later, the above-described acceptance procedure shall recommence. The City shall not be obligated to allow the Company to recommence curative action with respect to any Defect or deficiency previously identified by the City or more than twice for any given Deliverable or Milestone (and shall be entitled to terminate this Contract for default if the criteria for acceptance are not met within this time frame).

Under no circumstances shall the City's acceptance of a Deliverable or Milestone be deemed to constitute a waiver of any of the Specifications and Requirements, the completion dates in the Project Plan, or any of the Company's other obligations under this Contract. No such waiver shall be effective unless specifically agreed to in writing by a City Key Business Executive. Likewise, the Company shall not be relieved of such obligations by any Defect or deficiency in the Deliverable, nor by any failure on the part of the Company or City to detect such Defect or deficiency.

7. PROJECT PHASES.

The Company will design, install, configure, deliver, test and commission the System in the following five phases, each of which is described in detail in the subsequent Sections of this Scope of Implementation Services:

Phase I: Define Phase

Phase II: Design Phase

Phase III: Build Phase

Phase IV: Deliver Phase

Phase V: Trial Period

8. PHASE I: DEFINE PHASE.

The Define Phase will consist of the following tasks and Deliverables:

8.1. PROJECT PLAN.

8.1.1. Within thirty (30) days after the Effective Date, the Company shall prepare and submit to the City for approval a comprehensive and detailed project plan that identifies all tasks, steps and resources needed for delivery of the System in full compliance with the Specifications and Requirements within the time periods set forth in the Project Schedule (the "Project Plan").

8.1.2. The Project Plan shall clearly identify in detail all steps, tasks, activities, events, milestones and resources necessary for the Company to: (i) design, supply, configure, install, test and commission a System which fully complies with the Specifications and Requirements, and (ii) provide for a smooth and efficient transition from the existing system, to the new System, with minimum disruption to City operations. The Project Plan shall clearly define all hardware, software, deliverables and tasks required for each Milestone in each Phase of the Project. The Project Plan shall include a chart in Microsoft Project format that clearly identifies the schedule, order, completion date, number of day's duration, responsible party and prerequisites for all such activities, events, tasks, Milestones and Deliverables.

8.1.3. The Project Plan will be developed in a manner so that the City and Company Project team can use it as a stand-alone document.

8.1.4. The Project Plan will contain a schedule, overall strategy and methodology for the mapping, data conversion and the loading of data from the current City system(s) to

the System.

- 8.1.5. The Project Plan will contain a schedule for all training courses needed by the City to fully and productively use the System.
- 8.1.6. The Project Plan will identify when each type of Hardware and Software component will be installed.
- 8.1.7. The Company shall maintain the Project Plan. The Microsoft Project schedule contained within the Project Plan and shall be updated and submitted to the City on a weekly basis throughout the Project (until System Acceptance), to reflect the current status of all work. Aside from updates to show mutually agreed upon status changes, no changes to the Project Plan shall be made without the prior written approval of the City.

8.2. TRAINING PLAN.

- 8.2.1. Within the time periods and by the completion dates set forth in the Project Schedule, the Company shall prepare and provide to the City for approval a written comprehensive training program that shall outline the content, sequence and duration of each segment of each training session necessary to thoroughly and comprehensively train City personnel to fully utilize the System (the "Training Plan"). The Training Plan will outline all subjects necessary to train City staff to fully understand and utilize all user functions of the System, and to train the designated "trainers" to effectively train other City personnel to fully understand and utilize the user functions of such software on the System.
- 8.2.2. The Training Plan shall require the Company to provide the operator training and comprehensive "train the trainer" training for the numbers of City designated personnel listed in the chart identified in Section 9.2.4. In the Training Plan, the Company will schedule the training classes and modules according to their appropriate phase of the Project. For example, the classes for building tables must be scheduled before the City begins building the tables, and operator training must be scheduled to ensure a smooth transition to live operations. The Training Plans described below will also take into account classroom resources and personnel scheduling.
- 8.2.3. In the Training Plan, the Company shall provide the City with a written description of the types of the precise training classes that will be conducted, the number of persons that can be trained in each session, and the total number of hours required for each person to be trained. The Training Plan shall provide for rotating shift operations. All training will be conducted on-site in City facilities.
- 8.2.4. Without limiting the Company's obligations hereunder, the Company will provide and the Training Plan will include each of the courses described in the Training Courses List which is attached to this Scope of Implementation Services as Attachment I and incorporated herein by reference to the numbers of students set forth below:

<u>CLASS</u>
• System Overview
• System Administration
• System Management Reporting
• Supervisor Functions
• End User
• Report Creation

The cost of all training referenced in this Exhibit is included in the Purchase Price.

- 8.2.5. The System Administration and Management Reporting courses shall contain all information and materials necessary to enable City designated staff to become fully proficient to:
- troubleshoot and identify the area or System component within the System that is causing any problem(s);
 - modify existing System management reports;
 - identify sources of statistical data that can be used to assess trends in System operations (use) and performance; and
 - demonstrate configuration of the System terminal display forms.
- 8.2.6. The Company will provide a documentation template so that the City can replicate all training material and pass it out to City staff and other authorized users of the System.
- 8.2.7. The Training Plan provided by the Company during the Project will include the following information:
- Course summary/outline;
 - Duration of training for each module;
 - Location of training; and
 - Student prerequisites.
- 8.2.8. After approval of the Training Plan by the City, the Company shall prepare and provide to the City for approval, the instructor's course notes, which shall contain all information and materials necessary that will be presented in each course to be provided as part of the Training Plan (the "Lesson Plan").
- 8.2.9. The Company shall supply all training aids and course materials for the training, for: (i) the "train the trainer" training described above; and (ii) all operator training. For each course referenced in the chart included in this Section, the Company shall provide, at a minimum, the number of complete sets of all course materials and training aids for each class equal to the number of students shown on the chart (other than the videotapes).
- 8.2.10. The City shall be entitled (but not required) to videotape all training classes provided by the Company, and to use the videotapes as a permanent training aid as part of the ongoing City training program.
- 8.2.11. The City shall have royalty free unrestricted rights to reproduce an unlimited number of copies of the Training Program, the Course Lesson Plan and all Company supplied course materials and training aids (including the videotapes), for use by the City as part of the City's ongoing training.

9. PHASE II: DESIGN PHASE.

The Design Phase will consist of the following tasks and Deliverables:

9.1. SYSTEM DESIGN

- 9.1.1. Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare and submit to the City for approval the detailed design documentation described below (the "Design Documentation").
- 9.1.2. The Company shall prepare and submit to the City for approval interface and map construction documentation in the form of, product specifications, installation, and/or other types of documentation that will enable the City to clearly determine,

whether the System as proposed by the Company will fully satisfy the Specifications and Requirements. The Design Documentation shall include, without limitation, the following:

- 9.1.2.1. Interface Designs for all interfaces to the System. The Company will provide a design for all interfaces specified in **Exhibit [Insert Here]** sufficient to ensure compliance with the Specifications and Requirements. The interface designs will specify all links, protocols and interfaces that need to be created to link the System to required data sources and other systems.
- 9.1.2.2. Map Importation Design. The Company will provide specifications for all map importation so as to ensure compliance with the Specifications and Requirements. The map specifications will contain overall strategy and methodology for the mapping, conversion and loading of data from the current City system(s) to the System. The Company will specify a methodology for cleaning and verifying old data before migration, including but not limited to a contingency plan for handling data that cannot be converted (e.g., fields with data elements that have changed their meaning over time). The Schedule for the map activities will be part of the overall project schedule.
- 9.1.2.3. Manuals, Documentation and/or on-line help capability for all third-party products used for interfaces or map importation (which documentation shall be sufficient to enable trained City users to fully utilize the System and identify problems).

The parties acknowledge that the City will require Design Documentation which meets the City's written approval prior to allowing the implementation of the System by the Company to proceed, except as agreed in writing by the City for specific items.

9.2. **CONFIGURATION PLAN.**

- 9.2.1. Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare, and submit to the City for approval a configuration plan in Visio format compatible with the City's software for all System Hardware and Software Deliverables. The Configuration Plan will include the following:
 - Visio Diagrams, including both system level and components; and
 - A System overview (written documentation to document Visio Diagrams).
- 9.2.2. The Configuration Plan shall clearly identify all the Hardware to be delivered as part of the System, as well as the respective Software for each piece of Hardware. The Configuration Plan will provide system administrators and other City personnel with a clear understanding of the overall System Hardware/Software configuration.
- 9.2.3. All references to the Project Plan in the MCSI or the Exhibits thereto shall be deemed to include to the Configuration Plan.

10. CONVERSION PLAN.

- 10.1. Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare and submit to the City for approval, a conversion plan for converting all data necessary to transfer all operations from the old system to the new System ("Conversion Plan").
- 10.2. The Conversion Plan shall clearly identify in detail all steps, tasks, activities, events, milestones and resources necessary for the Company to convert data to the System in a

manner so that the System will operate in full compliance with the Specifications and Requirements. The Company will be responsible for all data conversion activities.

- 10.3. All references to the Project Plan in the MCSI or the Exhibits thereto shall be deemed to include to the Conversion Plan.

11. CUT-OVER PLAN.

- 11.1. Within the time period and by the completion dates set forth in the Project Schedule and the Project Plan, the Company shall prepare and submit to the City for approval a cut-over plan the ("Cut-Over Plan").
- 11.2. The Cut-Over Plan shall clearly identify in detail all steps, tasks, activities, events, milestones and resources necessary for the Company and the City, to cut over to the System in a manner so that it fully complies with the Specifications and Requirements. The Cut-Over Plan shall ensure a smooth and efficient transition from the City's current systems to the System with minimum disruption to current operations. The Cut-Over Plan will identify those operations which cannot be interrupted by implementation and provide a methodology to ensure continual delivery of service. The Company will work with the City to ensure that at the time of cut-over, the System is functioning with equivalent or better performance to the configuration currently used by the City.
- 11.3. All references to the Project Plan in the MCSI or the Exhibits thereto shall be deemed to include to the Conversion Plan.

12. ACCEPTANCE TEST PLAN AND PROCEDURES.

- 12.1. Within the time period and by the completion date set forth in the Project Schedule and the Project Plan, the Company shall prepare and provide to the City comprehensive acceptance test plans and procedures that will clearly and conclusively demonstrate to the City's satisfaction whether the entire System and each component thereof meets all Specifications and Requirements (the "Test Plan and Procedures").
- 12.2. The Test Plan and Procedures shall clearly specify and describe all tests, test methods and inspections necessary to clearly and conclusively demonstrate to the City's satisfaction whether or not the complete System and each component thereof meets and satisfies all Specifications and Requirements. The acceptance testing shall include peak-load processing and on-line processing, as well as all links, protocols and interfaces. The Test Plan and Procedures shall require the Company to perform the following tests in conjunction with City personnel prior to cut-over:
- 12.2.1. Sub-system testing to ensure that collections of modules which have been integrated into sub-systems operate correctly together (including tests sufficient to detect all interface errors);
- 12.2.2. System-wide testing to ensure that the entire System operates correctly as a whole. These tests will validate whether the System as a whole fully complies with the Specifications and Requirements; and
- 12.2.3. City Data Testing to ensure that the System performs in full compliance with the Specifications and Requirements with data supplied by the City.
- 12.3. The Test Plan and Procedures shall further include detailed descriptions of each test to be conducted, and the minimum acceptable limits and tolerances clearly identified for each test. The Test Plan and Procedures shall identify all tests which shall occur as a condition for the end of Phase IV and the beginning of cut-over. Additionally, the Test Plan and Procedures shall specify for each test a written results record form that will be completed by the Company as witnessed and acknowledged by the City, after each test is completed. The Test Plan and Procedures shall further include a list of all test equipment, software and facilities that will be required to complete all tests.

- 12.4. The Test Plan and Procedures shall clearly identify the sequence of all tests and the schedule for conducting all tests to comply with the Project Plan.
- 12.5. The City shall have the right to witness and object to each test performed pursuant to the Test Plan and Procedures. The Company shall provide the City reasonable notice of and opportunity to witness and object to each test performed pursuant to the Test Plan and Procedures. No test shall be deemed to be completed unless the City receives reasonable notice of such test, and was provided with an opportunity to plainly observe such test.
- 12.6. The Test Plan and Procedures shall include a description of tests for system security requirements that will occur, including but not limited to attempted break-ins. The Test Plan and Procedures shall also specify all testing software tools that are planned for use and which party will use such products in the testing. Finally, the Test Plan and Procedures will describe how and where test plans and results will be stored, including a 10-year storage requirement.
- 12.7. The Company shall conduct all tests included in the Test Plan and Procedures and shall be responsible for providing all test equipment (hardware and software), all test routines, and personnel for setting up and conducting all such tests.
- 12.8. Neither the Test Plan and Procedures nor the Test Procedures shall be revised without the prior approval of the City.

13. PHASE III: BUILD PHASE.

During the Build Phase, the Company will gather input and perform System configuration activities to support the City's unique operational workflow. The Company will populate the database and construct the maps during this phase. The Company's key responsibilities during this phase include the following:

- 13.1. **SYSTEM DEVELOPMENT.**
During System Development, the Company will translate the Specifications and Requirements and the Design Documentation into usable hardware components, adaptable interfaces, and appropriate code.
- 13.2. **STAGING AND TESTING.**
The Company will perform integration consisting of staging the System, preparing the test platform, and testing the System. Together with development, these activities will produce the required System.
- 13.3. **DOCUMENTATION CUSTOMIZATION.**
The Company will provide Documentation sufficient for the City to fully utilize the System and each of the Products.
- 13.4. **CONFIGURATION MANAGEMENT.**
The Company will build the System in accordance with the approved Configuration Plan. The Company's configuration management responsibilities include maintaining baseline documentation, System configuration details and baseline software. They also include managing change. The Company Project Manager will be responsible for processing and maintaining Change Statements throughout the life of the Project and will also be responsible for updating the initial configuration diagram. By instituting an active configuration management process, the Company will ensure that the System development effort will move ahead, that critical baseline information will be rigorously maintained, and that change requests are properly evaluated and effectively implemented when appropriate.

13.5. DATA COLLECTION.

The Company will work closely with the City to ensure that the data collection activities meet the System's requirements.

13.6. COMPLETED SYSTEM.

The Build Phase culminates in the creation of the System.

14. PHASE IV: DELIVER SYSTEM.

During the Deliver Phase, the System will be tested and placed into live operation. The Test Plan and Procedures will serve as a foundation for the System to be rigorously tested for correct operation prior to its actual use. The Company's key responsibilities during this phase include the following:

14.1. OVERVIEW OF OPERATING ENVIRONMENT CREATION.

To create the System operating environment, Company will perform the following:

14.1.1. Install the System at the City's site.

14.1.2. Establish the baseline operating environment.

14.1.3. Set up the System with all Product-related data, such as product administration accounts and product schema definitions.

14.1.4. Initialize the System and bring it on-line according to the start-up instructions.

14.1.5. Load converted data and verify connection to any other external systems as required.

14.1.6. Create, configure, and customize, as appropriate, the required user accounts.

The Deliverable for this task is that the System will be ready for the System-wide functional acceptance tests which confirm that the entire System functions in full compliance with the Specifications and Requirements using City data.

14.2. DELIVERY OF PRODUCTS.

14.2.1. The Company shall deliver all Products within the time periods set forth in the Project Schedule.

14.2.2. All Company supplied Hardware will be staged and tested at the Company's facilities prior to delivery to the City's site. Prior to delivery of Software, the Company will perform factory acceptance tests using the Software to be delivered. The Software loaded and tested will be the latest certified version.

14.2.3. The City shall not be required to make any inspection of the Products. However, the City shall be entitled to inspect the Products as they are delivered and to reject all or any of the Products for any failure to comply with the descriptions, specifications, requirements and performance standards set forth in the MCSI, including but not limited to the requirement that all Hardware shall be new, undamaged and in good working order (any such failure to comply being referred to as a "Product Deficiency").

14.2.4. Within a reasonable time period, the City shall give the Company written notice of any Product Deficiencies which the City wants corrected based on the City's initial inspection. Failure by the City to give written notice of any Product Deficiencies shall not in any way relieve the Company from or shift to the City any of the Company's obligations under the Contract Documents, including but not limited to the Company's obligation to design, supply, install, configure, test and commission the System in accordance with the Specifications and Requirements. Likewise, the Company shall not be relieved of such obligations by any Defects in the Products, nor by any failure on the part of the Company or City to detect such Defects.

14.2.5. Upon receipt of notice that the City has rejected any of the Products, the Company shall promptly replace all such rejected Products. In the event the Company fails to provide replacement Products with all Product Deficiencies identified by the City corrected (and no new Product Deficiencies created) within five (5) business days after receipt of the City's notice of rejection, the City shall be entitled to terminate this MCSI without further obligation to Company. Rejection of all or part of the Product delivery by the City shall not result in any extension of the completion dates or time periods set forth in the Project Schedule unless specifically agreed in writing by a City Key Business Executive with respect to a particular rejection notice.

14.3. INSTALLATION AND CONFIGURATION OF SYSTEM.

Within the time period and by the completion date set forth in the Project Plan, the Company shall install and configure the complete System Hardware and Software in full compliance with the Specifications and Requirements.

14.4. WORKMANSHIP AND INSTALLATION STANDARDS.

The Company and its subcontractors shall perform all installation work in accordance with the highest industry standards and shall comply with all local, state and federal government codes and regulations.

A. The installation, location and methods of installation of all Hardware shall be subject to the prior written approval of the City.

B. The Company shall route all wiring and cables from computer terminal connection points to City-provided connection points to avoid obstructing passage of personnel and shall include safeguards against inadvertent harm to personnel, the general public, or damage to the equipment and facilities of the City and its vendors.

C. All installation work performed by the Company and its subcontractors shall be carried out by qualified, skilled trades people.

D. The Company shall be responsible for determining all minimum installation standards for all sites, and shall obtain the City's written approval, prior to and after completion of all installation work.

14.5. SECURITY AND WAREHOUSING OF EQUIPMENT.

The Company shall be responsible for the security and warehousing of all equipment supplied by the Company (or its subcontractors) pending installation of the equipment in the City facilities.

14.6. RESTORATION OF PREMESIS.

After implementation and prior to the expiration of the Trial Period, the Company shall restore the City's premises to their original condition. This includes removal of debris, restoring areas affected in the course of implementation, and repairing all damage. The Company Project Manager will be responsible for inspecting all areas before work starts and reporting any pre-existing damage to the City Project Manager.

15. TRAINING.

Training will be completed under the schedule set forth in the Project Plan.

15.1. OPERATION.

At the end of the Deliver Phase, the System will be operational and in full conformance with the Specifications and Requirements and will be ready for use in live operations. The Company will work with the City to ensure that the System will function with equivalent or better performance to the configuration currently used by the City immediately after cut-over.

15.2. TESTING.

By the end of the Build Phase, the Company will complete all acceptance tests set forth in the Test Plan and Procedures, so as to establish that the System is ready to go into production. All acceptance tests shall be conducted in strict compliance with the Test Plan and Procedures with the City present during all such Tests to witness and verify such Tests. The Company will provide the City with copies of all acceptance test results immediately upon completion. After the acceptance tests have been successfully completed, the City can choose the timing for taking the System into full production use.

During the course of acceptance testing, the City may give the Company written notice of any Defects it observes in the performance of the System as a whole or any component. Failure to provide such notice shall not in any way relieve the Company from or shift to the City any of the Company's obligations under the MCSI, including but not limited to the Specifications and Requirements. Likewise, the Company shall not be relieved of such obligations by any errors or omissions in the acceptance tests.

Upon receipt of notice of Defects or deficiencies in all or any portion of the System, the Company shall act diligently and promptly to correct all Defects and deficiencies identified by the City, and shall immediately upon completing such corrections give City a written certification to that effect (a "Certification"). In the event the Company fails to correct all Defects and deficiencies identified by the City within ten (10) business days after receipt of the City's notice, the City shall be entitled to terminate the MCSI for default without further obligation to Company and without limiting any other remedies it may have. Rejection of all or part of the System by the City shall not result in any extension of the completion dates or time periods set forth in the Project Plan unless specifically agreed in writing by the City with respect to a particular rejection notice.

Upon correction of the Defects and deficiencies identified by the City and the City's receipt of a Certification, whichever is later, the System shall be re-tested and the City shall again have an opportunity to notify the Company of any Defects or deficiencies with the System or any component thereof. Upon the Company's receipt of such notice, the above-described procedure shall re-commence. Regardless of the number of Defects and deficiencies identified or the number of attempts to cure, the Company shall be required to cure all Defects and deficiencies within twenty (20) business days after receipt of the City's first notice of rejection (excluding the number of days which the City evaluate the System after each Certification). In the event the Company fails to cure all Defects and deficiencies within such period, the City shall be entitled to immediately terminate the MCSI for default, without limiting any other remedies it may have.

15.3. PRODUCTION SYSTEM (Deliverable).

The Deliverable for completion of the Deliver Phase is the installed, functional, tested, and signed-off System in full conformance with the Specifications and Requirements ready to go into production and begin the Trial Period.

15.4. DOCUMENTATION.

Within the time frame and by the completion date set forth in the Project Plan and prior to the end of Phase IV, the Company shall provide to the City all user manuals and other Documentation necessary for the City to fully utilize the System. The Documentation shall satisfy all descriptions, requirements, specifications and standards set forth in Exhibit B to the MCSI.

15.5. CUT-OVER ACCEPTANCE FORM (Exit Criterion).

The exit criterion for the Deliver Phase will be a cut-over acceptance form signed by the City and the Company stating that the entire System and each component, module and sub-system have successfully passed acceptance tests to verify full compliance with the

Specifications and Requirements and are ready to go into production, and that the Company has provided all required Documentation (the “Cut-Over Acceptance Form”).

15.6. CUT-OVER TO OPERATION SUPPORT.

After completion of the above-referenced cut-over acceptance tests and delivery of the Documentation, the development portion of the Project will be complete. The next step in the Project management methodology is a transition to operations and support mode. This process will begin immediately after the above-referenced Cut-Over Acceptance Form is delivered to the Company, and will be conducted in accordance with the Cut-Over Plan.

15.7. NO WAIVER.

Under no circumstances shall the City’s acceptance of the Project Plan, Design Documentation, Configuration Plan, Conversion Plan, Cut-Over Plan, Acceptance Test Plan and Procedures or other Deliverable constitute a waiver of the Specifications and Requirements the completion dates in the Project Plan, or any of the Company’s other obligations under this Contract. No such waiver shall be effective unless specifically agreed to in writing by a City Key Business Executive. Likewise, the Company shall not be relieved of such obligations by any Defect or deficiency in the Deliverable, nor by any failure on the part of the Company or City to detect such Defect or deficiency.

16. PHASE V: TRIAL PERIOD.

16.1. SYSTEM ACCEPTANCE.

16.1.1. System Acceptance shall occur when the entire System has been in production use with live data for all departments and users in full compliance with the Specifications and Requirements for at least sixty (60) continuous days (the “Trial Period”). The Trial Period shall begin upon cut-over, after the completion of Phase IV.

During the Trial Period, the Company will correct Defects with the System within the time frames established in the Scope of Maintenance Services attached to the MCSI as Exhibit E, even though the Maintenance Services do not officially begin until System Acceptance. If the Company fails to comply with such time frames, the City shall be entitled to terminate the MCSI for default, in addition to any other remedies that may be available under the MCSI or at law.

16.1.2. During the Trial Period, the City shall also be entitled to give the Company written Rejection Notices, of the following, each of which shall be deemed a Defect:

- Any failure of the System or any component thereof to fully meet and comply with the Specifications and Requirements; or
- If the Company has not certified in writing that all Products and Services delivered to the City by the Company, are in full compliance with all Specifications and Requirements, and with all laws, regulations and industry specified standards; or
- If the Company has not certified in writing that all deficiencies, problems and variances, whether or not revealed as part of the testing and inspection process, have been corrected to meet all Specifications and Requirements; or
- If the Company has failed to satisfy all of the training obligations referenced in this Scope of Implementation Services in accordance with the requirements set forth herein; or
- If the Company has failed to provide Documentation that satisfies the description, specifications and requirements set forth in the MCSI (including all Exhibits); or

- 16.1.3. Upon receipt of a Rejection Notice during the Trial Period, the Company: (a) shall act diligently and continuously to correct the Defects identified in the Rejection Notice; and (b) shall immediately upon completing such corrections give the City a Certification that all Defects have been corrected. In the event the Company fails to correct all Defects identified in the Rejection Notice and provide a Certification within thirty (30) days after receipt of the Rejection Notice, the City shall be entitled to terminate this Contract for default without further obligation to Company. The Trial Period shall begin again each time the City submits a Rejection Notice to the Company, provided that the starting date of the new Trial Period shall be on the date the Company certifies that the Defect(s) identified in the Rejection Notice have been corrected. The City shall not be obligated to allow the Company to restart the Trial Period more than twice, and shall be entitled to terminate this Contract for default in the event the Trial Period is not successfully completed on the third try.

17. SYSTEM ACCEPTANCE BY THE CITY.

- 17.1. System Acceptance shall be deemed to occur only after the City has given the Company written notice of final acceptance of the System, after successful completion of the Trial Period (including the completion of all training and Documentation). Any instance of non-acceptance will be documented and submitted in writing to the Company Project Manager.
- 17.2. No warranty period for any of the Products or the System shall begin to run, nor shall the Maintenance and Support Contract become effective, until System Acceptance by the City has occurred.
- 17.3. Until System Acceptance, the Company shall continue to provide all required Products, Services, and resources necessary to correct all System Defects deficiencies and problems in a timely , forthright, and cooperative manner so as to comply with the time periods and completion dates set forth in the Project Plan.

Sample City Contract Exhibit D

PROJECT SCHEDULE

This Exhibit is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and [INSERT COMPANY NAME] (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI.

The Company shall deliver all Products and perform all Services in accordance with the attached Project Schedule (which is incorporated herein by reference). The dates on the attached Project Schedule shall be incorporated into the Project Plan, unless revised by the mutual written agreement of the parties.

Sample City Contract Exhibit E

MAINTENANCE SERVICES

This Exhibit is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and [INSERT COMPANY NAME] (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the main body of the MASI.

1. **GENERAL DESCRIPTION OF COMPANY RESPONSIBILITIES.**

Beginning on the date of System Acceptance and continuing throughout the term of this Contract (and any renewal period thereof), the Company shall provide to the City the services specified in the following provisions of this Contract (all of which are collectively referred to in this Contract as the “Maintenance Services”).

2. **PREVENTION AND CORRECTION OF DEFECTS.**

2.1. **SYSTEM.** The Company shall respond to and correct all Defects in the System within the time frames set forth in **Section 2.15** of this Exhibit. The Company shall further take all actions reasonably necessary to prevent Defects, and to cause the System to reliably and consistently operate in conformance with the Specifications and Requirements.

2.2. **SOFTWARE.** Without limiting any of its other obligations under this Contract, the Company shall correct Defects in the Software within the time frames set forth in **Section 2.15** of this Contract, and take such actions as are necessary to ensure that the Software fully conforms to the Specifications and Requirements. The Company’s obligations hereunder extend to Third Party Software and Customizations, as well as other Software (including Upgrades and New Versions to Third Party Software and Customizations).

2.3. **HARDWARE.** Without limiting any of its other obligations under this Contract, the Company will correct Defects in the Hardware within the time frames set forth in **Section 2.15** of this Contract, and maintain all Hardware in a manner so that: (i) the manufacturer warranty shall remain in full force and effect; (ii) such Hardware shall be qualified for coverage under the manufacturer’s maintenance program, if available; and (iii) so as to ensure that the Hardware operates in conformity with the Specifications and Requirements. During the term of this Contract, the Company shall be responsible for correcting all Defects in the Hardware (whether covered by manufacturer warranty or not). The Company shall supply all parts and labor required to perform its obligations under this Subsection at no charge beyond the Maintenance Fee.

2.4. **HIGHEST INDUSTRY STANDARDS.** All work performed by the Company and/or its subcontractors pursuant to this Contract shall meet the highest industry standards for professional quality and workmanship, and shall be performed by qualified staff using quality products and materials.

2.5. **SOFTWARE NEW RELEASES AND NEW VERSIONS.** The Company shall provide to the City all New Releases and all New Versions to all Software (including Third Party Software) as soon as reasonably possible following their commercial release at no charge beyond the Maintenance Fee. The New Versions and New Releases provided by the Company to the City will incorporate Customizations at no charge beyond the Maintenance Fee. If requested by the City, the Company shall install New Releases and New Versions at no charge beyond the Maintenance Fee. All New Releases and New Versions provided to the City under this Contract will become part of the Software, and will be maintained by the Company under the terms of this Contract.

The Company will test and certify all New Releases and New Versions before providing them to the City.

Throughout the duration of the Maintenance Services, the Company will provide compatibility in new versions of the Company's Software with the Products that comprise the City's System.

- 2.6. **HARDWARE NEW RELEASES AND NEW VERSIONS.** The Company will provide and install at no charge beyond the Maintenance Fee all New Releases and New Versions to Hardware (including engineering changes) which are: (a) necessary to correct Defects or enable the System or any component to function at an optimum level; or (b) required by the manufacturer. This includes mandatory engineering change orders (ECOs).
- 2.7. **COMPLIANCE WITH LAWS.** The Company will promptly develop and provide at no charge beyond the Maintenance Fee all changes and additions to the Software and the Hardware that are required to achieve compliance with local, state or federal laws, regulations, codes and guidelines (including all changes to such laws, regulations, codes and guidelines). The Company will develop New Releases as necessary to improve ease of use and correct
- 2.8. **TRAINING AND DOCUMENTATION FOR MAJOR UPDATES AND ENHANCEMENTS.** The Company will provide at no charge beyond the Maintenance Fee all training and Documentation that is necessary for the City to fully utilize all major New Releases and New Versions.
- 2.9. **REPORTING OF DEFECTS.** The Company shall serve as a single source to address all Defects in the System. Notwithstanding the notice provisions contained in this Contract, the City shall be entitled to report Defects to the Company by telephone, E-mail, or other means, provided that all Defects which require immediate attention shall first be reported by telephone. Notice of Defects need not be in writing, and shall be deemed effective when first received by the Company. The City shall not be required to follow up in-person, telephone, E-mail or telefax notices of Defects with a hard copy by mail or other means.
- 2.10. **TELEPHONE SUPPORT.** The Company shall provide toll free "single point of call" telephone support to the City with respect to the use of the Products and the correction of Defects. Such support will be available from Monday through Friday 7:00 a.m. until 6:00 p.m. Eastern Time ("Regular Business Hours"). During Regular Business Hours, the Company will provide sufficient, qualified help desk personnel to ensure that City problems are addressed immediately. At all other times, a recording will advise the City representative the appropriate pager number to utilize. The Company will respond to each page within one hour.
- 2.11. **REMOTE SUPPORT.** The Company shall provide remote diagnostic and repair service to the City with respect to the use of the Products and the correction of Defects, ("Remote Services"). The Company will make Remote Services available to the City both during Regular business through the help desk, and at other times through the Company staff who respond to pages. The Company shall comply with the security measures set forth on in this Exhibit regarding remote access, and any other security measures provided by the City in writing from time to time regarding access to the System.

The Remote Services to be provided by the Company include but are not limited to the following:

- Software diagnostics;
- Database diagnostics;
- CPU monitoring and diagnostics;
- Memory usage and performance monitoring;
- Operating system parameters analysis and diagnostics;
- Remote downloading of software (fixes and features releases); and
- Immediate response to calls.

- 2.12. **ON-SITE SERVICES.** Company shall provide on-site maintenance and support to the extent necessary to correct any Defect in the Products, or the System, or to carry out any of the Company's other obligations under this Contract. There shall be no charge for such on-site services, other than the Maintenance Fees provided in this Contract.
- 2.13. **CHANGE CONTROL PROCEDURES.** In performing remote support and other Maintenance Services, the Company will comply with the change control procedures established by the City from time to time, provided that the City shall give the Company notice of such procedures.
- 2.14. **ACCESS TO FACILITIES AND PERSONNEL.** In the event Company provides on-site support, the City shall provide the Company with reasonable access, without charge, to the City's facilities, appropriate personnel, and any other information reasonably requested by Company so as to enable Company to provide Services, provided that the City can do so at no significant cost to the City.
- 2.15. **SEVERITY LEVELS, RESPONSE TIMES AND RESOLUTION TIMES.** The Company will comply with the response times, resolution time and resolution procedures set forth in this Section for each of the priority levels of problems described herein. The City shall assign an initial priority level for each problem reported, either verbally or in writing, based on the conditions described below. The Company will work with the City to upgrade or reduce the level of a particular problem to a different priority level, if after examining the problem there is reason to do so. Notwithstanding the foregoing, the Company shall not upgrade or reduce the level of priority of a particular error to a different priority without the City's consent, which consent may not be unreasonably withheld.

Priority One Critical	Priority One applies if the problem could: Prevent the accomplishment of an operational or mission essential function, OR Causes loss of data or data corruption, OR Jeopardize safety or security
Response Time	Immediately, if the problem is reported during Regular Business Hours Within one hour of notification if the problem is reported after Regular Business Hours. If on-site repair is required, the Company will be on-site within two hours after notification.
Resolution Time	Within 12 hours after the problem is first reported by the City.
Liquidated Damages	Ten percent (10%) of the annual Maintenance Fees paid or payable by the City for each instance where the Company fails to resolve a Priority One problem within the resolution time specified above. For each twelve hours that a Priority One problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to ten percent (10%) of the annual Maintenance Fees paid or payable by the City
Termination Trigger	The City may exercise the right to terminate this Contract immediately for default upon written notice to the Company in the event that a Priority One problem continues in duration for more than 24hours after it is first reported by the City.

Priority Two	Priority Two applies if the problem could: Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, and no Workaround is available, OR Adversely affect technical or cost risks to the life cycle support of the System, and no Workaround is available.
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Section 8

Sample City Contract

	Priority Two problems include aborts, but not loss of data or data corruption.
Response Time	Immediately, if the problem is reported during Regular Business Hours Within one hour of notification if the problem is reported after Regular Business Hours. If on-site repair is required, the Company will be on-site within two hours after notification.
Resolution Time	Within 48 hours after the problem is first reported to the City
Liquidated Damages	Ten percent (10%) of the annual Maintenance Fees paid or payable by the City for each instance where the Company fails to resolve a Priority Two problem within the resolution time specified above. For each forty-eight hours that a Priority Two problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to ten percent (10%) of the annual Maintenance Fees paid or payable by the City
Termination Trigger	The City may exercise the right to terminate this Contract immediately for default in the event that a Priority Two problem continues in duration for more than forty-eight (48) hours after it is first reported by the City.
Priority Three	Priority Three applies if the problem could: Adversely affect (but not prevent) the accomplishment of an operational or mission essential function, but a Workaround is available, OR Adversely affect technical or cost risks to the life cycle support of the System, but a Workaround is available. Priority Three problems do not include aborts or loss of data.
Response Time	Immediately, if the problem is reported during Regular Business Hours. Within eight hours of notification if the problem is reported after normal working hours.
Resolution Time	Resolution within sixty (60) days.
Liquidated Damages	Five percent (5%) of the annual Maintenance Fees paid or payable by the City for each instance where the Company fails to resolve a Priority Three problem within the resolution time specified above. For each twenty days that a Priority Three problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to five percent (5%) of the annual maintenance fees paid or payable by the City
Termination Trigger	The City may exercise the right to terminate this Contract in the event that a Priority Three problem continues in duration for sixty (60) or more calendar days after the resolution time specified above.
Priority Four Minor	Any problem related to the System which does not fall within Priority One, Two or Three
Response Time	Immediately, if the problem is reported during Regular Business Hours Within two days of notification if the problem is reported after Regular Business Hours.
Resolution Time	Resolution within the next two New Releases.
Liquidated Damages	Five percent (5%) of the annual Maintenance Fees paid or payable by the City for each instance where the Company fails to resolve a Priority Four problem within the resolution time specified above. For each thirty days that a Priority Four problem continues after the resolution time specified above, the Company shall pay additional liquidated damages equal to five

	percent (5%) of the annual maintenance fees paid or payable by the City
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- 2.16. **DISASTER RECOVERY.** In the event of a disaster, the Services shall be provided to the City and/or a disaster recovery services vendor at the location of the disaster recovery efforts. Upon the occurrence of a disaster, the Company shall assist the City in performing disaster recovery activities to restore the System to operational service.
- 2.17. **PHONE LOGS.** Company will keep detailed records of telephone calls, Remote Services, on-site visits and other information necessary to readily identify the date a problem is reported, a summary of procedures followed by the Company to correct the problem and any follow up calls relating to such problem. Each month, the Company will send the City a report containing such information.
- 2.18. **TECHNICAL RECORDS.** The Company shall produce and maintain during the term of the MASI and for a period of five (5) years thereafter detailed technical records with respect to all Maintenance Services performed under the MASI, including but not limited to engineering notebooks, development commentary, flow charts, logic diagrams and other materials related to the System (the "Technical Records"). The Company shall provide the City with copies of the Technical Records as requested in writing from time to time by the City.
- 2.19. **PREVENTIVE MAINTENANCE.** The Company shall take all reasonable actions necessary to prevent Defects, and to cause the System to reliably and consistently operate in conformance with the Specifications and Requirements.
3. **CITY'S RIGHT TO RANDOM AND PERIODIC VALIDATION.**
Throughout the life of the System, the City shall have the right to, on its own or through any auditor or agent, randomly and periodically perform such tests, verifications or technical validations which the City deems necessary to determine whether the System or the Products are in conformance with the Specifications and Requirements, or to verify the results of any test(s) performed by the Company or its agents.
4. **ASSURANCE OF CONTINUED MAINTENANCE AND SUPPORT.**
Without limiting any of the Company's other obligations under this Contract, the Company shall support the immediately preceding version of a Current Release of the Software for at least twenty four (24) months following issuance of such Current Release of the Software, provided that if a Current Release requires the City to incur significant integration costs or significant costs in replacing hardware or software (including operating system software), then the Company shall support the immediately preceding version for at least forty-eight (48) months following issuance of the Current Release.
5. **SECURITY MEASURES FOR REMOTE ACCESS.**
The Company will not allow any person or entity to have remote access to the System other than those individuals whom the City has consented in writing to allow access to ("Authorized Personnel"). The Company shall take appropriate steps to insure that all Authorized Personnel who have access to the System shall use such access only for the purpose of correcting Defects in the System or providing New Releases or New Versions to the System. The Company shall take appropriate steps to ensure that all Authorized Personnel comply with this restriction, including but not limited to having such persons execute a written agreement to that effect.
- The Company will take such steps as are necessary to ensure that only Authorized Personnel have access to the System.
- The Company builds and maintains such "firewalls" as are reasonably necessary to insure that access to the System is restricted in accordance with this Contract, and that Company's access will not create an opportunity for sabotage or improper use of the System.

Sample City Contract Exhibit F

LICENSE

This Exhibit is incorporated into and made a part of the Master Contract for System Integration (“MCSI”) between the City of Charlotte (the “City”) and [INSERT COMPANY NAME] (the “Company”). Unless otherwise defined herein, capitalized terms in this Exhibit shall have the same meanings as are assigned to such terms in the main body of the MCSI. For purposes of this Exhibit only, the term “Software” shall not be deemed to include Customizations, given that the Customizations are owned by the City and require no license.

1. GRANT OF LICENSE

- 1.1. *GRANT OF LICENSE.* Subject to the restrictions set forth in **Section 1.2** below, the Company grants to City and the Affiliates a perpetual, nonexclusive, irrevocable, nontransferable, royalty-free license to:
 - (a) Use the Software and the Documentation for all purposes set forth or referenced in the MCSI or the City’s RFP or the Company’s Proposal, including but not limited to: (a) the operation and use of the System, (b) internal training and testing, (c) development, (d) disaster recovery, backup, archive and restore testing and implementation purposes and (e) any other purpose related to the above; and
 - (b) Allow direct and remote access to the Software and Documentation by an unlimited number of users and departments of: (a) the City; (b) any Affiliate, (c) any other entity to which the City provides services through use of the System; and (d) any other person or entity to which the City needs to allow access in order to provide services to any of the above through the System;
 - (c) Modify, improve, enhance, update, integrate and make derivative works of the Software and the Documentation on its own or through a third party; and
 - (d) Make as many copies of the Software and Documentation as it desires in support of its authorized use of the Software, provided that said copies shall include the Company’s or the third party owner’s copyright and other proprietary notices (as the case may be).
- 1.2. *RESTRICTIONS ON USE.* The City shall not use, copy, disclose or distribute the Software except as permitted by this License.
- 1.3. *THIRD PARTY ACCESS.* The City may: (a) allow access to the Software and Documentation by third party contractors to modify, improve, enhance, update, integrate and make derivative works of the Software and the Documentation, and (b) make and provide a copy of the Software and Documentation to third parties to whom the City has outsourced disaster recovery functions, operations of human resources, or Year 2000 testing; provided that such third parties execute an agreement containing provisions substantially similar to those set forth in the Confidentiality Agreement.
- 1.4. *SOURCE CODE.* Company shall cause the Source Code for all Customizations (and Updates and Enhancements thereof) to be delivered to the City within ten days after delivery of the Customization. Company shall cause the Source Code for all Company Software (including Updates and Enhancements) to be delivered to the source code escrow agent identified in the Source Code Escrow Agreement. The City shall be given the Source Code under the conditions stated in the Source Code Escrow Agreement.

2. DELIVERY, TESTING AND ACCEPTANCE.

- 2.1. *DELIVERY.* The Company shall cause the Software to be delivered, configured and integrated at the times set forth in Exhibit C, the Project Schedule and the Project Plan. Any breach by the Company under the MCSI shall constitute a breach of this License.

- 2.2. *ACCEPTANCE.* The Software shall not be deemed to have been accepted by the City until System Acceptance has occurred
- 2.3. *ENHANCEMENTS AND UPDATES.* Company shall provide Enhancements and Updates to the City for so long as the Maintenance Services are in effect. Upon delivery to the City, such Enhancements and Updates of the Company Software and Third Party Software shall be deemed incorporated into and made part of the Company Software or the Third Party Software (as the case may be).

Sample City Contract Exhibit G

CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the "Agreement") is made and entered into as of this ____ day of ____, 2008 (the "Effective Date"), by and between the City of Charlotte, a North Carolina municipal corporation ("the City") and [Company] a corporation doing business in North Carolina, (the "Company")

RECITALS

WHEREAS, the City and Company are contemplating or have entered into certain business relationships;

WHEREAS, the City and Company have exchanged and/or may need to exchange confidential information in connection with discussions of such relationships;

WHEREAS, the City and Company desire to stipulate and agree that any disclosure of confidential information in connection with such relationships has occurred or will occur under circumstances and conditions that will protect and preserve the confidentiality of the information; and

NOW, THEREFORE, in consideration of the pursuit of current discussions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in further consideration of the covenants and representations contained herein, the parties agree as follows:

AGREEMENT

1. **DEFINITIONS.** As used in this Agreement, the following terms shall have the meanings set forth below:
 - 1.1.1. Confidential Information. The term "Confidential Information" shall mean any information, in any medium, whether written, oral or electronic, obtained from the City or the Company or any of their respective suppliers, contractors or licensors which falls within any of the following general categories:
 - 1.1.2. Trade secrets. For purposes of this Agreement, trade secrets consist of information of the City or the Company or any of their respective suppliers, contractors or licensors: (a) that derives value from being secret; and (b) that the owner has taken reasonable steps to keep confidential. Examples of trade secrets include information relating to proprietary software, new technology, new products or services, flow charts or diagrams that show how things work, manuals that tell how things work and business processes and procedures.
 - 1.1.3. Information marked "Confidential" or "Proprietary."
 - 1.1.4. Information relating to criminal investigations conducted by the City, and records of criminal intelligence information compiled by the City.
 - 1.1.5. Information contained in the City's personnel files, as defined by N.C. Gen. Stat. 160A-168. This consists all information gathered by the City about employees, except for that information which is a matter of public record under North Carolina law.
 - 1.1.6. Citizen or employee social security numbers collected by the City.
 - 1.1.7. Computer security information of the City, including all security features of electronic data processing, or information technology systems, telecommunications networks and electronic security systems. This encompasses but is not limited to passwords and security standards, procedures, processes, configurations, software and codes.
 - 1.1.8. Local tax records of the City that contains information about a taxpayer's income or receipts.
 - 1.1.9. Any attorney / client privileged information disclosed by either party.

- 1.1.10. Any data collected from a person applying for financial or other types of assistance, including but not limited to their income, bank accounts, savings accounts, etc.
- 1.1.11. The name or address of individual home owners who, based on their income, have received a rehabilitation grant to repair their home.
- 1.1.12. Building plans of city-owned buildings or structures, as well as any detailed security plans.
- 1.1.13. Billing information of customers compiled and maintained in connection with the City providing utility services.
- 1.1.14. Other information that is exempt from disclosure under the North Carolina public records laws.

Categories 1.1.3 through 1.1.14 above constitute “Highly Restricted Information,” as well as Confidential Information. The Company acknowledges that certain Highly Restricted Information is subject to legal restrictions beyond those imposed by this Agreement, and agrees that: (a) all provisions in this Agreement applicable to Confidential Information shall apply to Highly Restricted Information; and (b) the Company will also comply with any more restrictive instructions or written policies that may be provided by the City from time to time to protect the confidentiality of Highly Restricted Information.

The parties acknowledge that in addition to information disclosed or revealed after the date of this Agreement, the Confidential Information shall include information disclosed or revealed within one year prior to the date of this Agreement.

- 2. **RESTRICTIONS.** Each party shall keep the Confidential Information in the strictest confidence, in the manner set forth below:
 - 2.1. Neither party shall copy, modify, enhance, compile or assemble (or reverse compile or disassemble), or reverse engineer Confidential Information, except as authorized by written agreement of the parties or by the written consent of the other party.
 - 2.2. Neither party shall, directly or indirectly, disclose, divulge, reveal, report or transfer Confidential Information of the other to any third party, other than an agent, subcontractor or vendor of the City or Company having a need to know such Confidential Information for purpose of performing work contemplated by written agreements between the City and the Company, and who has executed a confidentiality agreement incorporating substantially the form of this the Agreement. Neither party shall directly or indirectly, disclose, divulge, reveal, report or transfer Highly Restricted of the other to any third party without the other party’s prior written consent.
 - 2.3. Neither party shall use any Confidential Information of the other for its own benefit or for the benefit of a third party, except to the extent such use is authorized by this Agreement or other written agreements between the parties hereto, or is for the purpose for which such Confidential Information is being disclosed.
 - 2.4. Neither party shall remove any proprietary legends or notices, including copyright notices, appearing on or in the Confidential Information of the other.
 - 2.5. Each party shall use reasonable efforts (including but not limited to seeking injunctive relief where reasonably necessary) to prohibit its employees, vendors, agents and subcontractors from using or disclosing the Confidential Information in a manner not permitted by this Agreement.
 - 2.6. In the event that any demand is made in litigation, arbitration or any other proceeding for disclosure of Confidential Information, the party upon which the demand is made shall assert this Agreement as a ground for refusing the demand and, if necessary, shall seek a

- protective order or other appropriate relief to prevent or restrict and protect any disclosure of Confidential Information.
- 2.7. All materials which constitute, reveal or derive from Confidential Information shall be kept confidential to the extent disclosure of such materials would reveal Confidential Information, and unless otherwise agreed, all such materials shall be returned to the disclosing party or destroyed upon satisfaction of the purpose of the disclosure of such information.
 - 2.8. Each party shall restrict employee access to the Confidential Information of the other party to those employees having a need to know for purposes of their jobs. For Company employees, "need to know" shall mean having a need to know in order to: (a) fulfill the Company's contractual obligations to the City, or (b) resolve a dispute with the City. For City employees, "need to know" shall mean a need to know in order to: (a) use, test, evaluate or manage services or products provided by the Company, (b) to fulfill the Company's obligations to the City, or (c) to resolve a dispute with the Company.
 - 2.9. Each party shall take reasonable measures to prevent the use or disclosure of Confidential Information by its employees in a manner not permitted by this Agreement. The Company shall have each of its employees who will have access to the Confidential Information sign a confidentiality agreement which provides the City and its vendors, licensors, subcontractors, employees and taxpayers the same level of protection as provided by this Agreement.
3. *EXCEPTIONS.* The disclosing party to this Agreement agrees that the receiving party ("Recipient") shall have no obligation with respect to any Confidential Information that the Recipient can establish:
 - 3.1. was already known to Recipient prior to being disclosed by the disclosing party;
 - 3.2. was or becomes publicly known through no wrongful act of Recipient;
 - 3.3. was rightfully obtained by Recipient from a third party without similar restriction and without breach hereof;
 - 3.4. was used or disclosed by Recipient with the prior written authorization of the other party;
 - 3.5. was disclosed pursuant to the requirement or request of a governmental agency, which disclosure cannot be made in confidence, provided that, in such instance, Recipient shall first give to the other party notice of such requirement or request;
 - 3.6. was disclosed pursuant to the order of a court of competent jurisdiction or a lawfully issued subpoena, provided that the Recipient shall take reasonable steps to obtain an agreement or protective order providing that this Agreement will be applicable to all disclosures under the court order or subpoena.
 4. *DATA.* The Company will treat as Confidential Information all data provided by the City or processed for the City or for citizens under this Agreement (including metadata). Such data shall remain the exclusive property of the City. The Company will not reproduce, copy, duplicate, disclose, or in any way treat the data supplied by the City in any manner except that contemplated by this Contract.
 5. *PUBLIC RECORDS.* Notwithstanding anything contained herein to the contrary, the parties recognize and acknowledge that the City is a subdivision of the State of North Carolina and is, therefore, subject to the North Carolina Public Records Act (the "Act") at N.C. Gen. Stat. 132-1 *et seq.* The parties further acknowledge that any Confidential Information that is a public record under North Carolina law may be released and disclosed by the City pursuant to the Act, and that any such release or disclosure shall not in any way constitute a breach of this Agreement, nor shall the City be liable to the Company for such release or disclosure.

In the event the City receives a request for disclosure of Confidential Information which the Company has specifically marked "Confidential" or "Proprietary" the City shall give the Company written notice of such request (the "Notice of Request for Disclosure"). In the event the Company has a reasonable basis for contending that the disclosure of such Confidential Information is not required by the Act, the Company shall within ten days after receipt of the Notice of Request for Disclosure notify the City in writing of its objection to disclosure and the basis therefore. The Company shall indemnify, defend and hold harmless the City from and against all losses, damages, liabilities, costs, obligations and expenses (including reasonable attorneys' fees) incurred by the City in connection with any refusal by the City to disclose Confidential Information after receiving an objection to disclosure from the Company. If the City receives no written objection from the Company within ten days after the Company's receipt of a Notice of Request for Disclosure, the City shall disclose the Confidential Information referenced in the Notice of Request for Disclosure.

Notwithstanding the forgoing, the parties agree that the computer database information that the City is required to disclose under N.C. Gen. Stat. §132-6.1 shall not be deemed Confidential Information, and that the City shall be entitled to disclose such information without notice to the Company.

6. *REMEDIES.* Each party acknowledges that the unauthorized disclosure of the Confidential Information of the other will diminish the value of the proprietary interests therein. Accordingly, it is agreed that if a party breaches its obligations hereunder, the other party shall be entitled to equitable relief to protect its interests, including but not limited to injunctive relief, as well as monetary damages.
7. *NOTICES.* Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by telefax to the intended recipient at the following address:

For the Company:

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For the City:

Kay Elmore—City of Charlotte
600 East Fourth Street, CMGC 9th Floor
Charlotte, NC 28202
PHONE: 704-336-2524
FAX: 704-336-2258
E-MAIL: kelfmore@ci.charlotte.nc.us

With Copy To:

With Copy To:

Cindy White
Office of the City Attorney
15th Floor, CMCG
600 East Fourth Street
Charlotte, N.C. 28203-2841
PHONE: 704-336-3012
FAX: 704-336-6644
E-MAIL: cwhite@ci.charlotte.nc.us

Notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by telefax or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier. Each party may change its address for notification purposes by giving the other party written notice of the new address and the date upon which it shall become effective.

8. *MISCELLANEOUS.*
 - 8.1. *ENTIRE AGREEMENT.* This Agreement constitutes the entire agreement between the parties with respect to protection and disclosure of the Confidential Information. There are no other representations, understandings of agreements between the parties with

respect to such subject matter. On the subject matter of this Agreement, it supersedes all prior agreements, negotiations, representations and proposals, written or oral.

- 8.2. *AMENDMENT.* No amendment or change to this Agreement shall be valid unless in writing and signed by both parties to this Agreement.
- 8.3. *GOVERNING LAW AND JURISDICTION.* North Carolina law shall govern interpretation of this Agreement and all other matters relating to this Agreement (all without regard North Carolina conflicts of laws principles). Any and all legal actions or proceedings relating to this Agreement shall be brought in a state or federal court sitting in Mecklenburg County, North Carolina. By execution of this Agreement, the parties submit to the jurisdiction of said courts and hereby irrevocably waive any and all objections which they may have with respect to venue in any court sitting in Mecklenburg County, North Carolina.
- 8.4. *BINDING NATURE AND ASSIGNMENT.* This Agreement shall bind the parties and their successors and permitted assigns. Neither party may assign any rights or obligations under this Agreement without the prior written consent of the other. Any assignment attempted without the written consent of the other party shall be void.
- 8.5. *SEVERABILITY.* The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of the Agreement can be determined and effectuated. If any provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.
- 8.6. *WAIVER.* No delay or omission by either party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by either party of any covenant or breach of this Agreement shall not constitute or operate as a waiver of any succeeding breach of that covenant or of any other covenant. No waiver of any provision of this Agreement shall be effective unless in writing and signed by the party waiving the rights.
- 8.7. *COUNTERPARTS.* This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one single agreement between the parties.
- 8.8. *TITLES OF SECTIONS.* The section headings inserted herein are for convenience only and are not intended to be used as aids to interpretation and are not binding on the parties.

Nothing in this Agreement shall be deemed to eliminate or lessen any obligation either party may have at law with respect to protecting the confidentiality of Confidential Information, except as the provisions of this Agreement expressly authorize the release of Confidential Information..