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shown in Exhibit "A".

B. The City's obligation to pay the sum stated above for any one fiscal year shall be contingent upon the City Council of the City appropriating the necessary funds for such payment by the City in each fiscal year during the term of this Agreement. For the purposes of this Section, a fiscal year commences on October 1 of the year and continues through September 30 of the following year. In the event that the City Council of the City fails to appropriate the necessary funds for any fiscal year, then, and in that event, the Agreement will terminate at no additional cost or obligation to the City.

C. Consultant may select the time and place of performance for these services; provided, however, that access to City documents, records and the like, if needed by Consultant, shall be available only during City's normal business hours and provided that milestones for performance, if any, are met.

D. Consultant has requested to receive regular payments. City shall pay Consultant in due course of payments following receipt from Consultant and approval by City of invoices showing the services or task performed, the time expended (if billing is hourly), and the name of the Project. Consultant shall certify on the invoices that Consultant has performed the services in full conformance with this Agreement and is entitled to receive payment. Each invoice shall be accompanied by a progress report indicating the progress to date of services performed and covered by the invoice, including a brief statement of any Project problems and potential causes of delay in performance, and listing those services that are projected for performance by Consultant during the next invoice cycle. Where billing is done and payment is made on an hourly basis, the parties acknowledge that this arrangement is either customary practice for Consultant's profession, industry or business, or is necessary to satisfy audit and legal requirements which may arise due to the fact that City is a municipality.

E. Consultant represents that Consultant has obtained all

1 necessary information on conditions and circumstances that may affect its  
2 performance and has conducted site visits, if necessary.

3 F. CAUTION: Consultant shall not begin work until this  
4 Agreement has been signed by both parties and until Consultant's evidence of  
5 insurance has been delivered to and approved by City.

6 2. TERM. The term of this Agreement shall commence at midnight on  
7 June 24, 2021, and shall terminate at 11:59 p.m. on June 23, 2022, unless sooner  
8 terminated as provided in this Agreement, or unless the services or the Project is  
9 completed sooner. The term may be renewed for two (2) additional one-year periods, at  
10 the discretion of the City Manager.

11 3. COORDINATION AND ORGANIZATION.

12 A. Consultant shall coordinate its performance with City's  
13 representative, if any, named in Exhibit "B", attached to this Agreement and  
14 incorporated by this reference. Consultant shall advise and inform City's  
15 representative of the work in progress on the Project in sufficient detail so as to  
16 assist City's representative in making presentations and in holding meetings on the  
17 Project. City shall furnish to Consultant information or materials, if any, described  
18 in Exhibit "C", attached to this Agreement and incorporated by this reference, and  
19 shall perform any other tasks described in the Exhibit.

20 B. The parties acknowledge that a substantial inducement to City  
21 for entering this Agreement was and is the reputation and skill of Consultant's key  
22 employee, named in Exhibit "D" attached to this Agreement and incorporated by this  
23 reference. City shall have the right to approve any person proposed by Consultant  
24 to replace that key employee.

25 4. INDEPENDENT CONTRACTOR. In performing its services,  
26 Consultant is and shall act as an independent contractor and not an employee,  
27 representative or agent of City. Consultant shall have control of Consultant's work and the  
28 manner in which it is performed. Consultant shall be free to contract for similar services to

1 be performed for others during this Agreement; provided, however, that Consultant acts in  
2 accordance with Section 9 and Section 11 of this Agreement. Consultant acknowledges  
3 and agrees that (a) City will not withhold taxes of any kind from Consultant's compensation;  
4 (b) City will not secure workers' compensation or pay unemployment insurance to, for or  
5 on Consultant's behalf; and (c) City will not provide and Consultant is not entitled to any of  
6 the usual and customary rights, benefits or privileges of City employees. Consultant  
7 expressly warrants that neither Consultant nor any of Consultant's employees or agents  
8 shall represent themselves to be employees or agents of City.

9                   5.     INSURANCE.

10                   A.     As a condition precedent to the effectiveness of this  
11 Agreement, Consultant shall procure and maintain, at Consultant's expense for the  
12 duration of this Agreement, from insurance companies that are admitted to write  
13 insurance in California and have ratings of or equivalent to A:V by A.M. Best  
14 Company or from authorized non-admitted insurance companies subject to Section  
15 1763 of the California Insurance Code and that have ratings of or equivalent to A:VIII  
16 by A.M. Best Company, the following insurance:

17                   i.     Commercial general liability insurance (equivalent in  
18 scope to ISO form CG 00 01 11 85 or CG 00 01 10 93) in an amount not less  
19 than One Million Dollars (\$1,000,000.00) per each occurrence and Two  
20 Million Dollars (\$2,000,000.00) general aggregate. This coverage shall  
21 include but not be limited to broad form contractual liability, cross liability,  
22 independent contractors liability, and products and completed operations  
23 liability. City, its boards and commissions, and their officials, employees and  
24 agents shall be named as additional insureds by endorsement (on City's  
25 endorsement form or on an endorsement equivalent in scope to ISO form CG  
26 20 10 11 85 or CG 20 26 11 85 or both CG 20 10 07 04 and CG 20 37 07 04  
27 or both CG 20 33 07 04 and CG 20 37 07 04), and this insurance shall contain  
28 no special limitations on the scope of protection given to City, its boards and

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commissions, and their officials, employees and agents. This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

ii. Workers' Compensation insurance as required by the California Labor Code and employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00). This policy shall be endorsed to state that the insurer waives its right of subrogation against City, its boards and commissions, and their officials, employees and agents.

iii. Cyber and privacy insurance (also known as cybersecurity, privacy, and media liability insurance) that does not exclude coverage for liability resulting from the Consultant's or its subcontractors', employees', or agents' failure to protect private or confidential information of City or others from unauthorized access on or through the internet, making known to any person or organization material that violates a person or organization's right to privacy or publicity right, and failure to prevent the transmission of a computer virus to its authorized users of its web site or any private communication networks, on or through the internet in an amount not less than Three Million Dollars (US \$3,000,000) per occurrence and Three Million Dollars (US \$3,000,000) in general aggregate. Commercial automobile liability insurance (equivalent in scope to ISO form CA 00 01 06 92), covering Auto Symbol 1 (Any Auto) in an amount not less than Five Hundred Thousand Dollars (\$500,000.00) combined single limit per accident.

iv. Umbrella liability insurance or excess liability insurance on a following form basis insurance with respect to provisions 5.A.i.,iii., and iv., including, but not limited to, additional insured coverage, if provided, in an amount not less than Two Million Dollars (\$2,000,000) per claim arising out of work performed by or on behalf of this Agreement.

B. Any self-insurance program, self-insured retention, or

1 deductible must be separately approved in writing by City's Risk Manager or  
2 designee and shall protect City, its officials, employees and agents in the same  
3 manner and to the same extent as they would have been protected had the policy  
4 or policies not contained retention or deductible provisions.

5 C. Each insurance policy shall be endorsed to state that coverage  
6 shall not be reduced, non-renewed or canceled except after thirty (30) days prior  
7 written notice to City, shall be primary and not contributing to any other insurance  
8 or self-insurance maintained by City, and shall be endorsed to state that coverage  
9 maintained by City shall be excess to and shall not contribute to insurance or self-  
10 insurance maintained by Consultant. Consultant shall notify City in writing within  
11 five (5) days after any insurance has been voided by the insurer or cancelled by the  
12 insured.

13 D. If this coverage is written on a "claims made" basis, it must  
14 provide for an extended reporting period of not less than one hundred eighty (180)  
15 days, commencing on the date this Agreement expires or is terminated, unless  
16 Consultant guarantees that Consultant will provide to City evidence of uninterrupted,  
17 continuing coverage for a period of not less than three (3) years, commencing on  
18 the date this Agreement expires or is terminated.

19 E. Consultant shall require that all subconsultants or contractors  
20 that Consultant uses in the performance of these services maintain insurance in  
21 compliance with this Section unless otherwise agreed in writing by City's Risk  
22 Manager or designee.

23 F. Prior to the start of performance, Consultant shall deliver to City  
24 certificates of insurance and the endorsements for approval as to sufficiency and  
25 form. In addition, Consultant shall, within thirty (30) days prior to expiration of the  
26 insurance, furnish to City certificates of insurance and endorsements evidencing  
27 renewal of the insurance. City reserves the right to require complete certified copies  
28 of all policies of Consultant and Consultant's subconsultants and contractors, at any

1 time. Consultant shall make available to City's Risk Manager or designee all books,  
2 records and other information relating to this insurance, during normal business  
3 hours.

4 G. Any modification or waiver of these insurance requirements  
5 shall only be made with the approval of City's Risk Manager or designee. Not more  
6 frequently than once a year, City's Risk Manager or designee may require that  
7 Consultant, Consultant's subconsultants and contractors change the amount, scope  
8 or types of coverages required in this Section if, in his or her sole opinion, the  
9 amount, scope or types of coverages are not adequate.

10 H. The procuring or existence of insurance shall not be construed  
11 or deemed as a limitation on liability relating to Consultant's performance or as full  
12 performance of or compliance with the indemnification provisions of this Agreement.

13 I. ASSIGNMENT AND SUBCONTRACTING. This Agreement  
14 contemplates the personal services of Consultant and Consultant's employees, and  
15 the parties acknowledge that a substantial inducement to City for entering this  
16 Agreement was and is the professional reputation and competence of Consultant  
17 and Consultant's employees. Consultant shall not assign its rights or delegate its  
18 duties under this Agreement, or any interest in this Agreement, or any portion of it,  
19 without the prior approval of City, except that Consultant may with the prior approval  
20 of the City Manager of City, assign any moneys due or to become due Consultant  
21 under this Agreement and further provided that Consultant may assign all of its  
22 rights and obligations under this Agreement to a purchaser of all or substantially all  
23 of its assets or share capital, subject to approval from the City which shall not be  
24 unreasonably withheld. Any attempted assignment or delegation shall be void, and  
25 any assignee or delegate shall acquire no right or interest by reason of an attempted  
26 assignment or delegation. Furthermore, Consultant shall not subcontract any  
27 portion of its performance without the prior approval of the City Manager or  
28 designee, or substitute an approved subconsultant or contractor without approval

1 prior to the substitution. Nothing stated in this Section shall prevent Consultant from  
2 employing as many employees as Consultant deems necessary for performance of  
3 this Agreement.

4 6. CONFLICT OF INTEREST. Consultant, by executing this Agreement,  
5 certifies that, at the time Consultant executes this Agreement and for its duration,  
6 Consultant does not and will not perform services for any other client which would create  
7 a conflict, whether monetary or otherwise, as between the interests of City and the interests  
8 of that other client. Consultant further certifies that Consultant does not now have and shall  
9 not acquire any interest, direct or indirect, in the area covered by this Agreement or any  
10 other source of income, interest in real property or investment which would be affected in  
11 any manner or degree by the performance of Consultant's services hereunder. And,  
12 Consultant shall obtain similar certifications from Consultant's employees, subconsultants  
13 and contractors.

14 7. MATERIALS. Consultant shall furnish all labor and supervision,  
15 supplies, materials, tools, machinery, equipment, appliances, transportation and services  
16 necessary to or used in the performance of Consultant's obligations under this Agreement,  
17 except as stated in Exhibit "D".

18 8. OWNERSHIP OF DELIVERABLES. All materials, information and  
19 data prepared, developed or assembled by Consultant for the City or furnished by  
20 Consultant in connection with this Agreement, including but not limited to documents,  
21 estimates, calculations, studies, maps, graphs, charts, computer disks, computer source  
22 documentation, samples, models, reports, summaries, drawings, designs, notes, plans,  
23 information, material and memorandum but excluding the Licensed Program (as defined  
24 below) ("Deliverables") shall be the exclusive property of City. The Deliverables shall be  
25 given to City, in a format identified by City and agreed by the parties, and City shall have  
26 the unrestricted right to use and disclose the Deliverables in any manner and for any  
27 purpose without payment of further compensation to Consultant. Copies of the  
28 Deliverables may be retained by Consultant but Consultant warrants that the Deliverables



1 shall not be made available to any person or entity for use without the prior approval of  
2 City. This warranty shall survive termination of this Agreement for five (5) years.

3 9. INTELLECTUAL PROPERTY AND COPYRIGHT.

4 A. As part of the services provided by the Consultant, subject to  
5 the terms hereof, Consultant hereby grants to the City a personal, non-exclusive,  
6 non-transferable limited license to use Consultant's SaaS platform as described in  
7 Exhibit A ("**Licensed Program**") for the City's internal uses only. No right license is  
8 granted to the source code of the Licensed Program or to create derivative works  
9 thereof or to transfer ownership of the media containing such software.

10 B. As between Consultant and City, all rights, title and interest in  
11 and to all intellectual property rights in the Services and Licensed Program, including  
12 any modifications, derivatives and enhancements thereof, are owned exclusively by  
13 Consultant. Except as expressly provided in this Agreement, Consultant does not  
14 grant City (and expressly reserves) any rights, express or implied, or ownership in  
15 the Services or any software provided by Consultant, including the Licensed  
16 Program. Consultant shall have a royalty-free, worldwide, non-exclusive,  
17 transferable, sub-license, irrevocable, perpetual right to make use, sell, offer for  
18 sale, import or otherwise incorporate into the Services, any suggestions,  
19 enhancements, updates, recommendations or other feedback provided by any party  
20 relating to the Services.

21 C. City may not directly or indirectly: reverse engineer, decompile,  
22 disassemble, or otherwise attempt to discover the source code, object code, or  
23 underlying structure, ideas, or algorithms of the Licensed Program, except to the  
24 extent such a restriction is limited by applicable law; modify, translate, or create  
25 derivative works based on the Licensed Program; or copy, reproduce, rent, lease,  
26 distribute, assign, sell, or otherwise dispose of the Licensed Program, in whole or in  
27 part, or otherwise commercially exploit, transfer, or encumber rights to the Licensed  
28 Program. City represents that it shall only use the Licensed Program in compliance

1 with all applicable laws and regulations. The City is not prevented from using the  
2 Licensed Program to publish Consultant's summary-level data either internally or  
3 publicly or from publishing information provided by Consultant to the City about  
4 Consultant's classification algorithm.

5 10. WARRANTY AND REPRESENTATION. Consultant warrants that:

6 A. Services will be performed in a good, professional and  
7 workmanlike manner by Consultant and shall perform in accordance with the  
8 applicable Scope of Work and be free from design, material, and workmanship  
9 defects in all material respects. In the event of any breach of this warranty,  
10 Consultant shall diligently remedy any material deficiencies that cause the  
11 Services not to conform to the foregoing warranties within thirty (30) days after its  
12 receipt of written notice from City. If, after thirty (30) days from the date Consultant  
13 receives notice from City, Consultant is unable to remedy the deficiency then City  
14 may immediately terminate this Agreement.

15 B. Consultant and its subcontractors and agents will perform  
16 Services in compliance with all applicable laws and regulations, including without  
17 limitation U.S. Privacy laws including HIPAA and the privacy and security rule, all  
18 solely to the extent applicable.

19 C. Consultant will perform the Services with at least the degree  
20 of accuracy, quality, efficiency, completeness, timeliness and responsiveness as  
21 are equal to or higher than the accepted industry standards applicable to the  
22 performance of the same of similar services.

23 11. TERMINATION. Either party shall have the right to terminate this  
24 Agreement by giving thirty (30) calendar days prior written notice to the other party. In the  
25 event of termination under this Section, City shall pay Consultant for services satisfactorily  
26 performed and costs incurred up to the effective date of termination for which Consultant  
27 has not been previously paid. The procedures for payment in Section 1.B. with regard to  
28 invoices shall apply. On the effective date of termination, Consultant shall deliver to City

1 all Deliverables developed or accumulated in the performance of this Agreement, whether  
2 in draft or final form, or in process. And, Consultant acknowledges and agrees that City's  
3 obligation to make final payment is conditioned on Consultant's delivery of the Deliverables  
4 to City.

5           12. CONFIDENTIALITY. Consultant shall keep all Deliverables, including  
6 information provided by the City, confidential and shall not disclose the Deliverables, or  
7 use the Deliverables directly or indirectly, other than in the course of performing its  
8 services, during the term of this Agreement and for five (5) years following expiration or  
9 termination of this Agreement. In addition, Consultant shall keep confidential all  
10 information, whether written, oral or visual, obtained by any means whatsoever in the  
11 course of performing its services for the same period of time. Consultant shall not disclose  
12 any or all of the Deliverables, including information provided by the City, to any third party,  
13 or use it for Consultant's own benefit or the benefit of others except for the purpose of this  
14 Agreement.

15           13. BREACH OF CONFIDENTIALITY. Consultant shall not be liable for  
16 a breach of confidentiality with respect to Deliverables, including information provided by  
17 the City, that: (a) Consultant demonstrates Consultant knew prior to the time City disclosed  
18 it; or (b) is or becomes publicly available without breach of this Agreement by Consultant;  
19 or (c) a third party who has a right to disclose does so to Consultant without restrictions on  
20 further disclosure; or (d) must be disclosed pursuant to subpoena or court order.

21           14. ADDITIONAL COSTS AND REDESIGN.

22           A. Any costs incurred by City due to Consultant's failure to meet  
23 the standards required by the scope of work or Consultant's failure to perform fully  
24 the tasks described in the scope of work which, in either case, causes City to request  
25 that Consultant perform again all or part of the Scope of Work shall be at the sole  
26 cost of Consultant and City shall not pay any additional compensation to Consultant  
27 for its re-performance.

28           B. If the Project involves construction and the scope of work

1 requires Consultant to prepare plans and specifications with an estimate of the cost  
2 of construction, then Consultant may be required to modify the plans and  
3 specifications, any construction documents relating to the plans and specifications,  
4 and Consultant's estimate, at no cost to City, when the lowest bid for construction  
5 received by City exceeds by more than ten percent (10%) Consultant's estimate.  
6 This modification shall be submitted in a timely fashion to allow City to receive new  
7 bids within four (4) months after the date on which the original plans and  
8 specifications were submitted by Consultant.

9 15. AMENDMENT. This Agreement, including all Exhibits, shall not be  
10 amended, nor any provision or breach waived, except in writing signed by the parties which  
11 expressly refers to this Agreement.

12 16. LAW. This Agreement shall be construed in accordance with the laws  
13 of the State of California, and the venue for any legal actions brought by any party with  
14 respect to this Agreement shall be the County of Los Angeles, State of California for state  
15 actions and the Central District of California for any federal actions. Consultant shall cause  
16 all work performed in connection with construction of the Project to be performed in  
17 compliance with (1) all applicable laws, ordinances, rules and regulations of federal, state,  
18 county or municipal governments or agencies (including, without limitation, all applicable  
19 federal and state labor standards, including the prevailing wage provisions of sections 1770  
20 *et seq.* of the California Labor Code); and (2) all directions, rules and regulations of any fire  
21 marshal, health officer, building inspector, or other officer of every governmental agency  
22 now having or hereafter acquiring jurisdiction.

23 17. PREVAILING WAGES.

24 A. Consultant agrees that all public work (as defined in California  
25 Labor Code section 1720) performed pursuant to this Agreement (the "Public  
26 Work"), if any, shall comply with the requirements of California Labor Code sections  
27 1770 *et seq.* City makes no representation or statement that the Project, or any  
28 portion thereof, is or is not a "public work" as defined in California Labor Code

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section 1720.

B. In all bid specifications, contracts and subcontracts for any such Public Work, Consultant shall obtain the general prevailing rate of per diem wages and the general prevailing rate for holiday and overtime work in this locality for each craft, classification or type of worker needed to perform the Public Work, and shall include such rates in the bid specifications, contract or subcontract. Such bid specifications, contract or subcontract must contain the following provision: "It shall be mandatory for the contractor to pay not less than the said prevailing rate of wages to all workers employed by the contractor in the execution of this contract. The contractor expressly agrees to comply with the penalty provisions of California Labor Code section 1775 and the payroll record keeping requirements of California Labor Code section 1771."

18. ENTIRE AGREEMENT. This Agreement, including all Exhibits, constitutes the entire understanding between the parties and supersedes all other agreements, oral or written, with respect to the subject matter in this Agreement.

19. INDEMNITY.

A. Consultant shall indemnify, protect and hold harmless City, its Boards, Commissions, and their officials, employees and agents ("Indemnified Parties"), from and against any and all liability, claims, demands, damage, loss, obligations, causes of action, proceedings, awards, fines, judgments, penalties, costs and expenses, arising or alleged to have arisen, in whole or in part, out of or in connection with (1) Consultant's breach or failure to comply with any of its obligations contained in this Agreement, including any obligations arising from the Project's compliance with or failure to comply with applicable laws, including all applicable federal and state labor requirements including, without limitation, the requirements of California Labor Code section 1770 *et seq.* or (2) negligent or willful acts, errors, omissions or misrepresentations committed by Consultant, its officers, employees, agents, subcontractors, or anyone under Consultant's control, in the

1 performance of work or services under this Agreement (collectively "Claims" or  
2 individually "Claim").

3 B. In addition to Consultant's duty to indemnify, Consultant shall  
4 have a separate and wholly independent duty to defend Indemnified Parties at  
5 Consultant's expense by legal counsel approved by City, from and against all  
6 Claims, and shall continue this defense until the Claims are resolved, whether by  
7 settlement, judgment or otherwise. No finding or judgment of negligence, fault,  
8 breach, or the like on the part of Consultant shall be required for the duty to defend  
9 to arise. City shall notify Consultant of any Claim, shall tender the defense of the  
10 Claim to Consultant, and shall assist Consultant, as may be reasonably requested,  
11 in the defense.

12 C. If a court of competent jurisdiction determines that a Claim was  
13 caused by the sole negligence or willful misconduct of Indemnified Parties,  
14 Consultant's costs of defense and indemnity shall be (1) reimbursed in full if the  
15 court determines sole negligence by the Indemnified Parties, or (2) reduced by the  
16 percentage of willful misconduct attributed by the court to the Indemnified Parties.

17 D. The provisions of this Section shall survive the expiration or  
18 termination of this Agreement.

19 20. AMBIGUITY. In the event of any conflict or ambiguity between this  
20 Agreement and any Exhibit, the provisions of this Agreement shall govern.

21 21. FORCE MAJEURE. If any party fails to perform its obligations  
22 because of strikes, lockouts, labor disputes, embargoes, acts of God, inability to obtain  
23 labor or materials or reasonable substitutes for labor materials, governmental restrictions,  
24 governmental regulations, governmental controls, judicial orders, enemy or hostile  
25 governmental action, pandemic, civil commotion, fire or other casualty, or other causes  
26 beyond the reasonable control of the party obligated to perform, then that party's  
27 performance will be excused for a period equal to the period of such cause for failure to  
28 perform.

1                   22.    NONDISCRIMINATION.

2                   A.     In connection with performance of this Agreement and subject  
3 to applicable rules and regulations, Consultant shall not discriminate against any  
4 employee or applicant for employment because of race, religion, national origin,  
5 color, age, sex, sexual orientation, gender identity, AIDS, HIV status, handicap or  
6 disability. Consultant shall ensure that applicants are employed, and that  
7 employees are treated during their employment, without regard to these bases.  
8 These actions shall include, but not be limited to, the following: employment,  
9 upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or  
10 termination; rates of pay or other forms of compensation; and selection for training,  
11 including apprenticeship.

12                  B.     It is the policy of City to encourage the participation of  
13 Disadvantaged, Minority and Women-Owned Business Enterprises in City's  
14 procurement process, and Consultant agrees to use its best efforts to carry out this  
15 policy in its use of subconsultants and contractors to the fullest extent consistent  
16 with the efficient performance of this Agreement. Consultant may rely on written  
17 representations by subconsultants and contractors regarding their status.  
18 Consultant shall report to City in May and in December or, in the case of short-term  
19 agreements, prior to invoicing for final payment, the names of all subconsultants  
20 and contractors hired by Consultant for this Project and information on whether or  
21 not they are a Disadvantaged, Minority or Women-Owned Business Enterprise, as  
22 defined in Section 8 of the Small Business Act (15 U.S.C. Sec. 637).

23                  23.    EQUAL BENEFITS ORDINANCE. Unless otherwise exempted in  
24 accordance with the provisions of the Ordinance, this Agreement is subject to the  
25 applicable provisions of the Equal Benefits Ordinance (EBO), section 2.73 et seq. of the  
26 Long Beach Municipal Code, as amended from time to time.

27                  A.     During the performance of this Agreement, the Consultant  
28 certifies and represents that the Consultant will comply with the EBO. The

1 Consultant agrees to post the following statement in conspicuous places at its place  
2 of business available to employees and applicants for employment:

3 "During the performance of a contract with the City of Long Beach, the  
4 Consultant will provide equal benefits to employees with spouses and its  
5 employees with domestic partners. Additional information about the City of  
6 Long Beach's Equal Benefits Ordinance may be obtained from the City of  
7 Long Beach Business Services Division at 562-570-6200."

8 B. The failure of the Consultant to comply with the EBO will be  
9 deemed to be a material breach of the Agreement by the City.

10 C. If the Consultant fails to comply with the EBO, the City may  
11 cancel, terminate or suspend the Agreement, in whole or in part, and monies due or  
12 to become due under the Agreement may be retained by the City. The City may  
13 also pursue any and all other remedies at law or in equity for any breach.

14 D. Failure to comply with the EBO may be used as evidence  
15 against the Consultant in actions taken pursuant to the provisions of Long Beach  
16 Municipal Code 2.93 et seq., Contractor Responsibility.

17 E. If the City determines that the Consultant has set up or used its  
18 contracting entity for the purpose of evading the intent of the EBO, the City may  
19 terminate the Agreement on behalf of the City. Violation of this provision may be  
20 used as evidence against the Consultant in actions taken pursuant to the provisions  
21 of Long Beach Municipal Code Section 2.93 et seq., Contractor Responsibility.

22 24. NOTICES. Any notice or approval required by this Agreement shall  
23 be in writing and personally delivered or deposited in the U.S. Postal Service, first class,  
24 postage prepaid, addressed to Consultant at the address first stated above, and to City at  
25 411 West Ocean Boulevard, Long Beach, California 90802, Attn: City Manager, with a copy  
26 to the City Engineer at the same address. Notice of change of address shall be given in  
27 the same manner as stated for other notices. Notice shall be deemed given on the date  
28 deposited in the mail or on the date personal delivery is made, whichever occurs first.



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25. COPYRIGHTS AND PATENT RIGHTS.

A. Consultant shall place the following copyright protection on all the Deliverables: © City of Long Beach, California \_\_\_\_, inserting the appropriate year.

B. City reserves the exclusive right to seek and obtain a patent or copyright registration on any of the Deliverables arising from Consultant's performance of this Agreement. By executing this Agreement, Consultant assigns any ownership interest Consultant may have in the Deliverables to City.

C. Consultant warrants that the Services and Deliverables do not violate or infringe any patent, copyright, trade secret or other proprietary right of any other party. Consultant agrees to and shall protect, defend, indemnify and hold City, its officials and employees harmless from any and all claims, demands, damages, loss, liability, causes of action, costs or expenses (including reasonable attorney's fees) whether or not reduced to judgment, arising from any breach or alleged breach of this warranty.

26. COVENANT AGAINST CONTINGENT FEES. Consultant warrants

that Consultant has not employed or retained any entity or person to solicit or obtain this Agreement and that Consultant has not paid or agreed to pay any entity or person any fee, commission or other monies based on or from the award of this Agreement. If Consultant breaches this warranty, City shall have the right to terminate this Agreement immediately notwithstanding the provisions of Section 10 or, in its discretion, to deduct from payments due under this Agreement or otherwise recover the full amount of the fee, commission or other monies.

27. WAIVER. The acceptance of any services or the payment of any

money by City shall not operate as a waiver of any provision of this Agreement or of any right to damages or indemnity stated in this Agreement. The waiver of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach of this Agreement.

1           28.    CONTINUATION. Termination or expiration of this Agreement shall  
2 not affect rights or liabilities of the parties which accrued pursuant to Sections 7, 10, 11,  
3 17, 19, 22 and 28 prior to termination or expiration of this Agreement.

4           29.    TAX REPORTING. As required by federal and state law, City is  
5 obligated to and will report the payment of compensation to Consultant on Form 1099-  
6 Misc. Consultant shall be solely responsible for payment of all federal and state taxes  
7 resulting from payments under this Agreement. Consultant shall submit Consultant's  
8 Employer Identification Number (EIN), or Consultant's Social Security Number if  
9 Consultant does not have an EIN, in writing to City's Accounts Payable, Department of  
10 Financial Management. Consultant acknowledges and agrees that City has no obligation  
11 to pay Consultant until Consultant provides one of these numbers.

12           30.    ADVERTISING. Consultant shall not use the name of City, its officials  
13 or employees in any advertising or solicitation for business or as a reference, without the  
14 prior approval of the City Manager or designee.

15           31.    AUDIT. City shall have the right at all reasonable times during the  
16 term of this Agreement and for a period of five (5) years after termination or expiration of  
17 this Agreement to examine, audit, inspect, review, extract information from and copy all  
18 books, records, accounts and other documents of Consultant relating to this Agreement.

19           32.    THIRD PARTY BENEFICIARY. This Agreement is not intended or  
20 designed to or entered for the purpose of creating any benefit or right for any person or  
21 entity of any kind that is not a party to this Agreement.

22           33.    LIMITATION OF LIABILITY. IN NO EVENT WILL CONSULTANT'S  
23 LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT OF CONSULTANT'S  
24 INSURANCE COVERAGE PROVIDED HEREIN. THE CITY AGREES THAT IN NO  
25 EVENT SHALL CONSULTANT OR ITS AGENTS, EMPLOYEES, OR DIRECTORS BE  
26 LIABLE TO THE CITY, OR ANYONE CLAIMING THROUGH THE CITY UNDER THIS  
27 AGREEMENT, FOR (A) THE CITY'S WILLFUL MISCONDUCT OR INTENTIONAL ACTS,  
28 OMISSIONS, OR NEGLIGENT ACTS; OR (B) FAILURE BY THE CITY TO COMPLY WITH

1 THE CITY'S OBLIGATIONS UNDER THIS AGREEMENT; OR (C) INCIDENTAL.  
2 INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER THIS AGREEMENT,  
3 REGARDLESS OF THE TYPE OF CLAIM FROM WHICH THEY ARISE, EVEN IF THE  
4 POSSIBILITY OF SUCH DAMAGES WAS FORESEEABLE.

5 IN WITNESS WHEREOF, the parties have caused this document to be duly  
6 executed with all formalities required by law as of the date first stated above.

ZENCITY TECHNOLOGIES US INC., a  
Delaware corporation

7  
8  
9 June 30, 2021

By [Signature]  
Name Eyal Feder Levy  
Title CEO

"Consultant"

CITY OF LONG BEACH, a municipal  
corporation

11  
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14  
15 July 2, 2021

By [Signature]  
City Manager

"City"

EXECUTED FOR THE CITY OF LONG BEACH  
TO SECTION 301 OF  
THE CITY CHARTER

16  
17 This Agreement is approved as to form on June 30, 2021.

18  
19 CHARLES PARKIN, City Attorney

20 By [Signature]  
21 Deputy  
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OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 9th Floor  
Long Beach, CA 90802-4004

1 THE CITY'S OBLIGATIONS UNDER THIS AGREEMENT; OR (C) INCIDENTAL,  
2 INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES UNDER THIS AGREEMENT,  
3 REGARDLESS OF THE TYPE OF CLAIM FROM WHICH THEY ARISE, EVEN IF THE  
4 POSSIBILITY OF SUCH DAMAGES WAS FORESEEABLE.

5 IN WITNESS WHEREOF, the parties have caused this document to be duly  
6 executed with all formalities required by law as of the date first stated above.

7  
8 ZENCITY TECHNOLOGIES US INC., a  
Delaware corporation

9 June 30, 2021

By [Signature]  
Name Eyal Feder Levy  
Title CEO

"Consultant"

13 CITY OF LONG BEACH, a municipal  
14 corporation

15 \_\_\_\_\_, 2021

By \_\_\_\_\_  
City Manager

"City"

17 This Agreement is approved as to form on \_\_\_\_\_, 2021.

19 CHARLES PARKIN, City Attorney

20 By \_\_\_\_\_  
21 Deputy

OFFICE OF THE CITY ATTORNEY  
CHARLES PARKIN, City Attorney  
411 West Ocean Boulevard, 5th Floor  
Long Beach, CA 90802-4864

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# EXHIBIT “A”

## Scope of Work

OFFICE OF THE CITY ATTORNEY  
 CHARLES PARKIN, City Attorney  
 411 West Ocean Boulevard, 9th Floor  
 Long Beach, CA 90802-4664

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**Exhibit "A"**

<b>RECURRING FEES</b>						
<b>SKU</b>	<b>Product Description</b>	<b>Unit Price</b>	<b>QTY (units)</b>	<b>Gross Price</b>	<b>Special Discount*</b>	<b>Net Price</b>
ZC-CORE	Zencity core SaaS platform allowing state and local governments to better understand and engage with their residents, for cities and counties with up to 500K residents. <ul style="list-style-type: none"> <li>• Full integration with all data sources provided by Zencity</li> <li>• Unlimited users</li> <li>• Unlimited project</li> <li>• Zencity insight reports</li> </ul>	\$96,000	1	96,000	-	\$96,000
ZC-API	Zencity data export API	\$9,500	1	\$9,500	100%	\$0
ZC-CER	Zencity Custom Engagement Reports	\$10,000	2	\$20,000	100%	\$0
ZC-TC	Zencity ad-hoc Temperature Checks	\$9,000	2	\$19,000	100%	\$0
ZC-BWQ BLOCKWISE- Quarterly	Quarterly surveys that allows for ongoing sense of trust, safety measurements and top resident concerns based on a representative sample of residents	\$55,000	1	\$55,000	41.2%	\$32,340
<b>Total Gross Price</b>						<b>\$199,500</b>
<b>Total Special Discounts</b>						<b>(\$71,160)</b>
<b>Total Fees</b>						<b>\$128,340</b>

Any additional modules, quantity increases or other custom development and integration work requested by Customer during the Term shall require an Order Form executed by the Parties, and shall be subject to the prevailing Zencity rate card subject to amendment from time to time.

<b>Effective Date:</b>	The date attached the Customer's signature below.
<b>Initial Term:</b>	[12] months, commencing on the Effective Date.
<b>Fees:</b>	The Fees are exclusive of any applicable taxes (including sales tax) and withholdings, which will be added to the Fees and paid by Customer, to the extent applicable.
<b>Payment Terms:</b>	The Fees shall be payable on an annual within 30 days of the Effective Date and on each annual monthly anniversary thereof.
<b>Customer Billing Contact:</b>	elisa.landeros@longbeach.gov
<b>Customer PO # (if applicable):</b>	

# EXHIBIT “B”

City’s Representative:

Ryan Kurtzman, Program Manager

(562) 570-6911

[Ryan.Kurtzman@longbeach.gov](mailto:Ryan.Kurtzman@longbeach.gov)

# EXHIBIT “C”

Materials/Information Furnished: None



# EXHIBIT “D”

Consultant’s Key Employee:

Noa Zeldin

VP of Sales and Business Development

Noa@Zencity.io