

**CONTRACT BETWEEN THE CITY OF AUSTIN
AND
Grey Wall Software, LLC d/b/a Veoci.com
For
Software and Support**

This Contract is made by and between the City of Austin ("City"), a home-rule municipality incorporated by the State of Texas, and Veoci.com ("Contractor"), having offices at 195 Church Street, 14th Floor, New Haven, CT 06510.

SECTION 1. GRANT OF AUTHORITY, SERVICES AND DUTIES

1.1 **Engagement of the Contractor.** Subject to the general supervision and control of the City and subject to the provisions of the Terms and Conditions contained herein, the Contractor is engaged to provide the services set forth in Section 2, Scope of Work.

1.2 **Responsibilities of the Contractor.** The Contractor shall provide all technical and professional expertise, knowledge, management, and other resources required for accomplishing all aspects of the tasks and associated activities identified in the Scope of Work. In the event that the need arises for the Contractor to perform services beyond those stated in the Scope of Work, the Contractor and the City shall negotiate mutually agreeable terms and compensation for completing the additional services.

1.3 **Responsibilities of the City.** The City's Contract Manager will be responsible for exercising general oversight of the Contractor's activities in completing the Scope of Work. Specifically, the Contract Manager will represent the City's interests in resolving day-to-day issues that may arise during the term of this Contract, shall participate regularly in conference calls or meetings for status reporting, shall promptly review any written reports submitted by the Contractor, and shall approve all invoices for payment, as appropriate. The City's Contract Manager shall give the Contractor timely feedback on the acceptability of progress and task reports.

1.4 **Designation of Key Personnel.** The Contractor's Contract Manager for this engagement shall be Ryan Nally, Phone: 203-782-5944 ext. 555, Email Address: ryan.nally@veoci.com. The City's Contract Manager for the engagement shall be Chuck Chapman, Phone: (512) 972-0129, Email Address: Chuck.Chapman@austintexas.gov. The City and the Contractor resolve to keep the same key personnel assigned to this engagement throughout its term. In the event that it becomes necessary for the Contractor to replace any key personnel, the replacement will be an individual having equivalent experience and competence in executing projects such as the one described herein. Additionally, the Contractor will promptly notify the City Contract Manager and obtain approval for the replacement. Such approval shall not be unreasonably withheld.

SECTION 2. SCOPE OF WORK

2.1 **Contractor's Obligations.** The Contractor shall fully and timely provide all deliverables described herein and in the Contractor's Offer in strict accordance with the terms, covenants, and conditions of the Contract and all applicable Federal, State, and local laws, rules, and regulations.

SECTION 3. COMPENSATION

3.1 **Contract Amount.** The Contractor will be paid as indicated herein upon the successful completion of the Scope of Work, as described herein. In consideration for the services to be performed under this Contract, the Contractor shall be paid an amount not to exceed \$59,660.00 for the initial term, \$59,660.00 for the first extension, \$59,660.00 for the second extension, \$59,660.00 for the third extension, and \$59,660.00 for the fourth extension, for a total estimated contract amount not to exceed \$298,300.00 comprising the software maintenance and support fees.

3.2 **Invoices.**

3.2.1 **Invoices shall contain a unique invoice number, the purchase order or delivery order number and the master agreement number if applicable, the Department's Name, and the name of the point of contact for the Department.** Invoices shall be itemized. The Contractor's name and, if applicable, the tax identification number on the invoice must exactly match the information in the Contractor's registration with the City. Unless otherwise instructed in writing, the City may rely on the remittance address specified on the Contractor's invoice. Invoices received without all required information cannot be processed and will be returned to the Contractor. Invoices shall be mailed to the below address:

	City of Austin
Department	Communication Technology Management or (CTM)
Attn	Accounts Payable
Email Address	CTMAPInvoices@austintexas.gov
Address	PO Box 1088
City, State, Zip Code	Austin, TX 78767

3.2.2 Invoices for labor shall include a copy of all time-sheets with trade labor rate and deliverables order number clearly identified. Invoices shall also include a tabulation of work-hours at the appropriate rates and grouped by work order number. Time billed for labor shall be limited to hours actually worked at the work site.

3.2.3 Unless otherwise expressly authorized in the Contract, the Contractor shall pass through all Subcontract and other authorized expenses at actual cost without markup.

3.2.4 Federal excise taxes, State taxes, or City sales taxes must not be included in the invoiced amount. The City will furnish a tax exemption certificate upon request.

3.3 **Payment.**

3.3.1 All proper invoices received by the City will be paid within thirty (30) calendar days of the City's receipt of the deliverables or of the invoice, whichever is later.

3.3.2 If payment is not timely made, (per this paragraph), interest shall accrue on the unpaid balance at the lesser of the rate specified in Texas Government Code Section 2251.025 or the maximum lawful rate; except, if payment is not timely made for a reason for which the City may withhold payment hereunder, interest shall not accrue until ten (10) calendar days after the grounds for withholding payment have been resolved.

3.3.3 The City may withhold or off set the entire payment or part of any payment otherwise due the Contractor to such extent as may be necessary on account of:

3.3.3.1 delivery of defective or non-conforming deliverables by the Contractor;

3.3.3.2 third party claims, which are not covered by the insurance which the Contractor is required to provide, are filed or reasonable evidence indicating probable filing of such claims;

3.3.3.3 failure of the Contractor to pay Subcontractors, or for labor, materials or equipment;

3.3.3.4 damage to the property of the City or the City's agents, employees or contractors, which is not covered by insurance required to be provided by the Contractor;

3.3.3.5 reasonable evidence that the Contractor's obligations will not be completed within the time specified in the Contract, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

3.3.3.6 failure of the Contractor to submit proper invoices with all required attachments and supporting documentation; or

3.3.3.7 failure of the Contractor to comply with any material provision of the Contract Documents.

3.3.4 Notice is hereby given of Article VIII, Section 1 of the Austin City Charter which prohibits the payment of any money to any person, firm or corporation who is in arrears to the City for taxes, and of §2-8-3 of the Austin City Code concerning the right of the City to offset indebtedness owed the City.

3.3.5 Payment will be made by check unless the parties mutually agree to payment by credit card or electronic transfer of funds. The Contractor agrees that there shall be no additional charges, surcharges, or penalties to the City for payments made by credit card or electronic transfer of funds.

3.4 **Retainage.** The City reserves the right to withhold a 3 percent (%) (3% unless a different percentage is inserted) retainage until completion of all work required by the Contract. The Contractor's invoice shall indicate the amount due, less the retainage. Upon final acceptance of the work, the Contractor shall submit an invoice for the retainage to the City and payment will be made as specified in the Contract. Payment of the retainage by the City shall not constitute nor be deemed a waiver or release by the City of any of its rights and remedies against the

Contractor for recovery of amounts improperly invoiced or for defective, incomplete or non-conforming work under the Contract.

3.5 **Non-Appropriation.** The awarding or continuation of this Contract is dependent upon the availability of funding. The City's payment obligations are payable only and solely from funds Appropriated and available for this Contract. The absence of Appropriated or other lawfully available funds shall render the Contract null and void to the extent funds are not Appropriated or available and any deliverables delivered but unpaid shall be returned to the Contractor. The City shall provide the Contractor written notice of the failure of the City to make an adequate Appropriation for any fiscal year to pay the amounts due under the Contract, or the reduction of any Appropriation to an amount insufficient to permit the City to pay its obligations under the Contract. In the event of non or inadequate appropriation of funds, there will be no penalty nor removal fees charged to the City.

3.6 **Reimbursable Expenses.** Expenses incurred directly in support of completing the work set forth in this Contract are reimbursable to the Contractor within the Contract amount.

3.6.1 **Administrative.** The Contractor will be reimbursed for selected administrative expenses incurred directly in support of executing this Contract. Reimbursable administrative expenses include actual charges for long distance telephone calls, facsimile transmissions, reproduction, printing and binding, postage, express delivery and report processing.

3.6.2 **Travel Expenses.** All travel, lodging, and per diem expenses in connection with the Contract for which reimbursement may be claimed by the Contractor under the terms of the Contract will be reviewed against the City's Travel Policy and the current United States General Services Administration Domestic Per Diem Rates (the "Rates") as published and maintained on the Internet at:

<http://www.gsa.gov/portal/category/21287>

No amounts in excess of the Travel Policy or Rates shall be paid. All invoices must be accompanied by copies of itemized receipts (e.g. hotel bills, airline tickets). No reimbursement will be made for expenses not actually incurred. Airline fares in excess of coach or economy will not be reimbursed. Mileage charges may not exceed the amount permitted as a deduction in any year under the Internal Revenue Code or Regulation.

3.7 **Final Payment and Close-Out.**

3.7.1 The making and acceptance of final payment will constitute:

3.7.1.1 a waiver of all claims by the City against the Contractor, except claims (1) which have been previously asserted in writing and not yet settled, (2) arising from defective work appearing after final inspection, (3) arising from failure of the Contractor to comply with the Contract or the terms of any warranty specified herein, (4) arising from the Contractor's continuing obligations under the Contract, including but not limited to indemnity and warranty obligations, or (5) arising under the City's right to audit; and

3.7.1.2 a waiver of all claims by the Contractor against the City other than those previously asserted in writing and not yet settled.

SECTION 4. TERM AND TERMINATION

4.1 **Term of Contract.** The Contract shall be in effect for an initial term of 12 months and may be extended thereafter for up to 4 additional 12 month periods, subject to the approval of the Contractor and the City Purchasing Officer or his designee.

4.2.1 Upon expiration of the contract, the Contractor agrees to hold over under the terms and conditions of this Contract for such a period of time as is reasonably necessary for the City to re-solicit and/or complete the deliverables due under this Contract (not exceed 120 calendar days unless mutually agreed on in writing).

4.2 **Right To Assurance.** Whenever one party to the Contract in good faith has reason to question the other party's intent to perform, demand may be made to the other party for written assurance of the intent to perform. In the event that no assurance is given within the time specified after demand is made, the demanding party may treat this failure as an anticipatory repudiation of the Contract.

4.3 **Default.** The Contractor shall be in default under the Contract if the Contractor (a) fails to fully, timely and faithfully perform any of its material obligations under the Contract, (b) fails to provide adequate assurance of performance under the "Right to Assurance paragraph herein, (c) becomes insolvent or seeks relief under the

bankruptcy laws of the United States or (d) makes a material misrepresentation in Contractor's Offer, or in any report or deliverable required to be submitted by Contractor to the City.

4.4 Termination For Cause. In the event of a default by the Contractor, the City shall have the right to terminate the Contract for cause, by written notice effective ten (10) calendar days, unless otherwise specified, after the date of such notice, unless the Contractor, within such ten (10) day period, cures such default, or provides evidence sufficient to prove to the City's reasonable satisfaction that such default does not, in fact, exist. The City may place Contractor on probation for a specified period of time within which the Contractor must correct any non-compliance issues. Probation shall not normally be for a period of more than nine (9) months, however, it may be for a longer period, not to exceed one (1) year depending on the circumstances. If the City determines the Contractor has failed to perform satisfactorily during the probation period, the City may proceed with suspension. In the event of a default by the Contractor, the City may suspend or debar the Contractor in accordance with the "City of Austin Purchasing Office Probation, Suspension and Debarment Rules for Vendors" and remove the Contractor from the City's vendor list for up to five (5) years and any Offer submitted by the Contractor may be disqualified for up to five (5) years. In addition to any other remedy available under law or in equity, the City shall be entitled to recover all actual damages, costs, losses and expenses, incurred by the City as a result of the Contractor's default, including, without limitation, cost of cover, reasonable attorneys' fees, court costs, and prejudgment and post-judgment interest at the maximum lawful rate. All rights and remedies under the Contract are cumulative and are not exclusive of any other right or remedy provided by law.

4.5 Fraud. Fraudulent statements by the Contractor on any Offer or in any report or deliverable required to be submitted by the Contractor to the City shall be grounds for the termination of the Contract for cause by the City and may result in legal action.

SECTION 5. OTHER DELIVERABLES

5.1 Equal Opportunity.

5.2.1 Equal Employment Opportunity. No Contractor, or Contractor's agent, shall engage in any discriminatory employment practice as defined in Chapter 5-4 of the City Code. No Offer submitted to the City shall be considered, nor any Purchase Order issued, or any Contract awarded by the City unless the Offeror has executed and filed with the City Purchasing Office a current Non-Discrimination Certification. Non-compliance with Chapter 5-4 of the City Code may result in sanctions, including termination of the contract and the Contractor's suspension or debarment from participation on future City contracts until deemed compliant with Chapter 5-4.

5.1.2 Americans With Disabilities Act (ADA) Compliance. No Contractor, or Contractor's agent, shall engage in any discriminatory practice against individuals with disabilities as defined in the ADA, including but not limited to: employment, accessibility to goods and services, reasonable accommodations, and effective communications.

5.2 Acceptance of Incomplete or Non-Conforming Deliverables. If, instead of requiring immediate correction or removal and replacement of defective or non-conforming deliverables, the City prefers to accept it, the City may do so. The Contractor shall pay all claims, costs, losses and damages attributable to the City's evaluation of and determination to accept such defective or non-conforming deliverables. If any such acceptance occurs prior to final payment, the City may deduct such amounts as are necessary to compensate the City for the diminished value of the defective or non-conforming deliverables. If the acceptance occurs after final payment, such amount will be refunded to the City by the Contractor.

5.3 Delays.

5.4.1 The City may delay scheduled delivery or other due dates by written notice to the Contractor if the City deems it is in its best interest. If such delay causes an increase in the cost of the work under the Contract, the City and the Contractor shall negotiate an equitable adjustment for costs incurred by the Contractor in the Contract price and execute an amendment to the Contract. The Contractor must assert its right to an adjustment within thirty (30) calendar days from the date of receipt of the notice of delay. Failure to agree on any adjusted price shall be handled under the Dispute Resolution process specified herein. However, nothing in this provision shall excuse the Contractor from delaying the delivery as notified.

5.3.2 Neither party shall be liable for any default or delay in the performance of its obligations under this Contract if, while and to the extent such default or delay is caused by acts of God, fire, riots, civil commotion, labor disruptions, sabotage, sovereign conduct, or any other cause beyond the reasonable control of such Party. In the event of default or delay in Contract performance due to any of the foregoing causes, then the time for completion of the services will be extended; provided, however, in such an event, a conference will be held within three (3) business days to establish a mutually agreeable period of time reasonably necessary to overcome the effect of such failure to perform.

5.4 **Ownership And Use Of Deliverables.** Please see Section 8 Proprietary Rights in the attached Grey Wall Software, LLC Subscription Terms and Conditions.

5.5 **Rights to Proposal and Contractual Material.** All material submitted by the Contractor to the City shall become property of the City upon receipt. Any portions of such material claimed by the Contractor to be proprietary must be clearly marked as such. Determination of the public nature of the material is subject to the Texas Public Information Act, Chapter 552, Texas Government Code.

5.6 **Publications.** All published material and written reports submitted under the Contract must be originally developed material unless otherwise specifically provided in the Contract. When material not originally developed is included in a report in any form, the source shall be identified.

SECTION 6. WARRANTIES

6.1 Warranty – Price.

6.1.1 The Contractor certifies that the prices in the Offer have been arrived at independently without consultation, communication, or agreement for the purpose of restricting competition, as to any matter relating to such fees with any other firm or with any competitor.

6.2 **Warranty – Services.** The Contractor warrants and represents that all services to be provided to the City under the Contract will be fully and timely performed in a good and workmanlike manner in accordance with generally accepted industry standards and practices, the terms, conditions, and covenants of the Contract, and all applicable Federal, State and local laws, rules or regulations.

6.2.1 The Contractor may not limit, exclude or disclaim the foregoing warranty or any warranty implied by law, and any attempt to do so shall be without force or effect.

6.2.2 Unless otherwise specified in the Contract, the warranty period shall be at least one year from the acceptance date. If during the warranty period, one or more of the warranties are breached, the Contractor shall promptly upon receipt of demand perform the services again in accordance with above standard at no additional cost to the City. All costs incidental to such additional performance shall be borne by the Contractor. The City shall endeavor to give the Contractor written notice of the breach of warranty within thirty (30) calendar days of discovery of the breach of warranty, but failure to give timely notice shall not impair the City's rights under this section.

6.2.3 If the Contractor is unable or unwilling to perform its services in accordance with the above standard as required by the City, then in addition to any other available remedy, the City may reduce the amount of services it may be required to purchase under the Contract from the Contractor, and purchase conforming services from other sources. In such event, the Contractor shall pay to the City upon demand the increased cost, if any, incurred by the City to procure such services from another source.

SECTION 7. MISCELLANEOUS

7.1 **Place and Condition of Work.** The City shall provide the Contractor access to the sites where the Contractor is to perform the services as required in order for the Contractor to perform the services in a timely and efficient manner in accordance with and subject to the applicable security laws, rules, and regulations. The Contractor acknowledges that it has satisfied itself as to the nature of the City's service requirements and specifications, the location and essential characteristics of the work sites, the quality and quantity of materials, equipment, labor and facilities necessary to perform the services, and any other condition or state of fact which could in any way affect performance of the Contractor's obligations under the Contract. The Contractor hereby releases and holds the City

harmless from and against any liability or claim for damages of any kind or nature if the actual site or service conditions differ from expected conditions.

7.2 Workforce.

7.2.1 The Contractor shall employ only orderly and competent workers, skilled in the performance of the services which they will perform under the Contract.

7.2.2 The Contractor, its employees, subcontractors, and subcontractor's employees may not while engaged in participating or responding to a solicitation or while in the course and scope of delivering goods or services under a City of Austin contract or on the City's property:

7.2.2.1 use or possess a firearm, including a concealed handgun that is licensed under state law, except as required by the terms of the Contract; and

7.2.2.2 use or possess alcoholic or other intoxicating beverages, illegal drugs or controlled substances, nor may such workers be intoxicated, or under the influence of alcohol or drugs, on the job.

7.2.3 If the City or the City's representative notifies the Contractor that any worker is incompetent, disorderly or disobedient, has knowingly or repeatedly violated safety regulations, has possessed any firearms, or has possessed or was under the influence of alcohol or drugs on the job, the Contractor shall immediately remove such worker from Contract services, and may not employ such worker again on Contract services without the City's prior written consent.

7.3 Compliance with Health, Safety, and Environmental Regulations. The Contractor, its Subcontractors, and their respective employees, shall comply fully with all applicable federal, state, and local health, safety, and environmental laws, ordinances, rules and regulations in the performance of the services, including but not limited to those promulgated by the City and by the Occupational Safety and Health Administration (OSHA). In case of conflict, the most stringent safety requirement shall govern. The Contractor shall indemnify and hold the City harmless from and against all claims, demands, suits, actions, judgments, fines, penalties and liability of every kind arising from the breach of the Contractor's obligations under this paragraph.

7.4 Significant Event. The Contractor shall immediately notify the City's Contract Manager of any current or prospective "significant event" on an ongoing basis. All notifications shall be submitted in writing to the Contract Manager. As used in this provision, a "significant event" is any occurrence or anticipated occurrence which might reasonably be expected to have a material effect upon the Contractor's ability to meet its contractual obligations. Significant events may include but not be limited to the following:

7.4.1 disposal of major assets;

7.4.2 any major computer software conversion, enhancement or modification to the operating systems, security systems, and application software, used in the performance of this Contract;

7.4.3 any significant termination or addition of provider contracts;

7.4.4 the Contractor's insolvency or the imposition of, or notice of the intent to impose, a receivership, conservatorship or special regulatory monitoring, or any bankruptcy proceedings, voluntary or involuntary, or reorganization proceedings;

7.4.5 strikes, slow-downs or substantial impairment of the Contractor's facilities or of other facilities used by the Contractor in the performance of this Contract;

7.4.6 reorganization, reduction and/or relocation in key personnel;

7.4.7 known or anticipated sale, merger, or acquisition;

7.4.8 known, planned or anticipated stock sales;

7.4.9 any litigation against the Contractor; or

7.4.10 significant change in market share or product focus.

7.5 **Audits and Records.**

7.5.1 The Contractor agrees that the representatives of the Office of the City Auditor or other authorized representatives of the City shall have access to, and the right to audit, examine, or reproduce, any and all records of the Contractor related to the performance under this Contract. The Contractor shall retain all such records for a period of three (3) years after final payment on this Contract or until all audit and litigation matters that the City has brought to the attention of the Contractor are resolved, whichever is longer. The Contractor agrees to refund to the City any overpayments disclosed by any such audit.

7.5.2 Records Retention:

7.5.2.1 Contractor is subject to City Code chapter 2-11 (Records Management), and as it may subsequently be amended. For purposes of this subsection, a Record means all books, accounts, reports, files, and other data recorded or created by a Contractor in fulfillment of the Contract whether in digital or physical format, except a record specifically relating to the Contractor's internal administration.

7.5.2.2 All Records are the property of the City. The Contractor may not dispose of or destroy a Record without City authorization and shall deliver the Records, in all requested formats and media, along with all finding aids and metadata, to the City at no cost when requested by the City.

7.5.3 The Contractor shall include sections 7.5.1 and 7.5.2 above in all subcontractor agreements entered into in connection with this Contract.

7.6 **Stop Work Notice.** The City may issue an immediate Stop Work Notice in the event the Contractor is observed performing in a manner that is in violation of Federal, State, or local guidelines, or in a manner that is determined by the City to be unsafe to either life or property. Upon notification, the Contractor will cease all work until notified by the City that the violation or unsafe condition has been corrected. The Contractor shall be liable for all costs incurred by the City as a result of the issuance of such Stop Work Notice.

7.7 **Indemnity.**

7.7.1 Definitions:

7.7.1.1 "Indemnified Claims" shall include any and all claims, demands, suits, causes of action, judgments and liability of every character, type or description, including all reasonable costs and expenses of litigation, mediation or other alternate dispute resolution mechanism, including attorney and other professional fees for:

7.7.1.1.1 damage to or loss of the property of any person (including, but not limited to the City, the Contractor, their respective agents, officers, employees and subcontractors; the officers, agents, and employees of such subcontractors; and third parties); and/or;

7.7.1.1.2 death, bodily injury, illness, disease, worker's compensation, loss of services, or loss of income or wages to any person (including but not limited to the agents, officers and employees of the City, the Contractor, the Contractor's subcontractors, and third parties),

7.7.1.2 "Fault" shall include the sale of defective or non-conforming deliverables, negligence, willful misconduct, or a breach of any legally imposed strict liability standard.

7.7.2 **THE CONTRACTOR SHALL DEFEND (AT THE OPTION OF THE CITY), INDEMNIFY, AND HOLD THE CITY, ITS SUCCESSORS, ASSIGNS, OFFICERS, EMPLOYEES AND ELECTED OFFICIALS HARMLESS FROM AND AGAINST ALL INDEMNIFIED CLAIMS DIRECTLY ARISING OUT OF, INCIDENT TO, CONCERNING OR RESULTING FROM THE FAULT OF THE CONTRACTOR, OR THE CONTRACTOR'S AGENTS, EMPLOYEES OR SUBCONTRACTORS, IN THE PERFORMANCE OF THE CONTRACTOR'S OBLIGATIONS UNDER THE CONTRACT. NOTHING HEREIN SHALL BE DEEMED TO LIMIT THE RIGHTS OF THE CITY OR THE CONTRACTOR (INCLUDING, BUT NOT LIMITED TO, THE RIGHT TO SEEK CONTRIBUTION) AGAINST ANY THIRD PARTY WHO MAY BE LIABLE FOR AN INDEMNIFIED CLAIM.**

7.7.2.1 Please see Section 10 Limitation of Liability in the attached Grey Wall Software, LLC Subscription Terms and Conditions, which applies to this Contract.

7.8 **Claims.** If any claim, demand, suit, or other action is asserted against the Contractor which arises under or concerns the Contract, or which could have a material adverse affect on the Contractor's ability to perform thereunder, the Contractor shall give written notice thereof to the City within ten (10) calendar days after receipt of notice by the Contractor. Such notice to the City shall state the date of notification of any such claim, demand, suit, or other action; the names and addresses of the claimant(s); the basis thereof; and the name of each person against whom such claim is being asserted. Such notice shall be delivered personally or by mail and shall be sent to the City and to the Austin City Attorney. Personal delivery to the City Attorney shall be to City Hall, 301 West 2nd Street, 4th Floor, Austin, Texas 78701, and mail delivery shall be to P.O. Box 1088, Austin, Texas 78767.

7.9 **Notices.** Unless otherwise specified, all notices, requests, or other communications required or appropriate to be given under the Contract shall be in writing and shall be deemed delivered three (3) business days after postmarked if sent by U.S. Postal Service Certified or Registered Mail, Return Receipt Requested. Notices delivered by other means shall be deemed delivered upon receipt by the addressee. Routine communications may be made by first class mail, telefax, or other commercially accepted means. Notices to the City and the Contractor shall be addressed as follows:

To the City:

City of Austin, Purchasing Office

ATTN: Gil Zilkha, Contract Administrator

P O Box 1088

Austin, TX 78767

To the Contractor:

Veoci.com

ATTN: Contract Manager

195 Church Street, 14th Floor

New Haven, CT 06510

7.10 **Confidentiality.** In order to provide the deliverables to the City, Contractor may require access to certain of the City's and/or its licensors' confidential information (including inventions, employee information, trade secrets, confidential know-how, confidential business information, and other information which the City or its licensors consider confidential) (collectively, "Confidential Information"). Contractor acknowledges and agrees that the Confidential Information is the valuable property of the City and/or its licensors and any unauthorized use, disclosure, dissemination, or other release of the Confidential Information will substantially injure the City and/or its licensors. The Contractor (including its employees, subcontractors, agents, or representatives) agrees that it will maintain the Confidential Information in strict confidence and shall not disclose, disseminate, copy, divulge, recreate, or otherwise use the Confidential Information without the prior written consent of the City or in a manner not expressly permitted under this Contract, unless the Confidential Information is required to be disclosed by law or an order of any court or other governmental authority with proper jurisdiction, provided the Contractor promptly notifies the City before disclosing such information so as to permit the City reasonable time to seek an appropriate protective order. The Contractor agrees to use protective measures no less stringent than the Contractor uses within its own business to protect its own most valuable information, which protective measures shall under all circumstances be at least reasonable measures to ensure the continued confidentiality of the Confidential Information.

7.11 **Advertising.** The Contractor shall not advertise or publish, without the City's prior consent, the fact that the City has entered into the Contract, except to the extent required by law.

7.12 **No Contingent Fees.** The Contractor warrants that no person or selling agency has been employed or retained to solicit or secure the Contract upon any agreement or understanding for commission, percentage, brokerage, or contingent fee, excepting bona fide employees of bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the City shall have the right, in addition to any other remedy available, to cancel the Contract without liability and to deduct from any amounts owed to the Contractor, or otherwise recover, the full amount of such commission, percentage, brokerage or contingent fee.

7.13 **Gratuities.** The City may, by written notice to the Contractor, cancel the Contract without liability if it is determined by the City that gratuities were offered or given by the Contractor or any agent or representative of the Contractor to any officer or employee of the City with a view toward securing the Contract or securing favorable treatment with respect to the awarding or amending or the making of any determinations with respect to the performing of such contract. In the event the Contract is canceled by the City pursuant to this provision, the City

shall be entitled, in addition to any other rights and remedies, to recover or withhold the amount of the cost incurred by the Contractor in providing such gratuities.

7.14 **Prohibition Against Personal Interest in Contracts.** No officer, employee, independent consultant, or elected official of the City who is involved in the development, evaluation, or decision-making process of the performance of any solicitation shall have a financial interest, direct or indirect, in the Contract resulting from that solicitation. Any willful violation of this section shall constitute impropriety in office, and any officer or employee guilty thereof shall be subject to disciplinary action up to and including dismissal. Any violation of this provision, with the knowledge, expressed or implied, of the Contractor shall render the Contract voidable by the City.

7.15 **Independent Contractor.** The Contract shall not be construed as creating an employer/employee relationship, a partnership, or a joint venture. The Contractor's services shall be those of an independent contractor. The Contractor agrees and understands that the Contract does not grant any rights or privileges established for employees of the City.

7.16 **Assignment-Delegation.** The Contract shall be binding upon and inure to the benefit of the City and the Contractor and their respective successors and assigns, provided however, that no right or interest in the Contract shall be assigned and no obligation shall be delegated by the Contractor without the prior written consent of the City. Any attempted assignment or delegation by the Contractor shall be void unless made in conformity with this paragraph. The Contract is not intended to confer rights or benefits on any person, firm or entity not a party hereto; it being the intention of the parties that there be no third party beneficiaries to the Contract.

7.17 **Waiver.** No claim or right arising out of a breach of the Contract can be discharged in whole or in part by a waiver or renunciation of the claim or right unless the waiver or renunciation is supported by consideration and is in writing signed by the aggrieved party. No waiver by either the Contractor or the City of any one or more events of default by the other party shall operate as, or be construed to be, a permanent waiver of any rights or obligations under the Contract, or an express or implied acceptance of any other existing or future default or defaults, whether of a similar or different character.

7.18 **Modifications.** The Contract can be modified or amended only in writing signed by both parties. No pre-printed or similar terms on any Contractor invoice, order or other document shall have any force or effect to change the terms, covenants, and conditions of the Contract.

7.19 **Interpretation.** The Contract is intended by the parties as a final, complete and exclusive statement of the terms of their agreement. No course of prior dealing between the parties or course of performance or usage of the trade shall be relevant to supplement or explain any term used in the Contract. Although the Contract may have been substantially drafted by one party, it is the intent of the parties that all provisions be construed in a manner to be fair to both parties, reading no provisions more strictly against one party or the other. Whenever a term defined by the Uniform Commercial Code, as enacted by the State of Texas, is used in the Contract, the UCC definition shall control, unless otherwise defined in the Contract.

7.20 **Dispute Resolution.**

7.20.1 If a dispute arises out of or relates to the Contract, or the breach thereof, the parties agree to negotiate prior to prosecuting a suit for damages. However, this section does not prohibit the filing of a lawsuit to toll the running of a statute of limitations or to seek injunctive relief. Either party may make a written request for a meeting between representatives of each party within fourteen (14) calendar days after receipt of the request or such later period as agreed by the parties. Each party shall include, at a minimum, one (1) senior level individual with decision-making authority regarding the dispute. The purpose of this and any subsequent meeting is to attempt in good faith to negotiate a resolution of the dispute. If, within thirty (30) calendar days after such meeting, the parties have not succeeded in negotiating a resolution of the dispute, they will proceed directly to mediation as described below. Negotiation may be waived by a written agreement signed by both parties, in which event the parties may proceed directly to mediation as described below.

7.20.2 If the efforts to resolve the dispute through negotiation fail, or the parties waive the negotiation process, the parties may select, within thirty (30) calendar days, a mediator trained in mediation skills to assist with resolution of the dispute. Should they choose this option, the City and the Contractor agree to act in good faith in the selection of the mediator and to give consideration to qualified individuals nominated to act as mediator. Nothing in the Contract prevents the parties from relying on the skills of a person who is trained in the subject matter of the dispute or a contract interpretation expert. If the parties fail to agree on a mediator within thirty (30) calendar days of initiation of the mediation process, the mediator shall be selected by the

Travis County Dispute Resolution Center (DRC). The parties agree to participate in mediation in good faith for up to thirty (30) calendar days from the date of the first mediation session. The City and the Contractor will share the mediator's fees equally and the parties will bear their own costs of participation such as fees for any consultants or attorneys they may utilize to represent them or otherwise assist them in the mediation.

7.21 Subcontractors.

7.21.1 If the Contractor identified Subcontractors in an MBE/WBE Program Compliance Plan or a No Goals Utilization Plan, the Contractor shall comply with the provisions of Chapters 2-9A, 2-9B, 2-9C, and 2-9D, as applicable, of the Austin City Code and the terms of the Compliance Plan or Utilization Plan as approved by the City (the "Plan"). The Contractor shall not initially employ any Subcontractor except as provided in the Contractor's Plan. The Contractor shall not substitute any Subcontractor identified in the Plan, unless the substitute has been accepted by the City in writing in accordance with the provisions of Chapters 2-9A, 2-9B, 2-9C and 2-9D, as applicable. No acceptance by the City of any Subcontractor shall constitute a waiver of any rights or remedies of the City with respect to defective deliverables provided by a Subcontractor. If a Plan has been approved, the Contractor is additionally required to submit a monthly Subcontract Awards and Expenditures Report to the Contract Manager and the Purchasing Office Contract Compliance Manager no later than the tenth calendar day of each month.

7.21.2 Work performed for the Contractor by a Subcontractor shall be pursuant to a written contract between the Contractor and Subcontractor. The terms of the subcontract may not conflict with the terms of the Contract, and shall contain provisions that:

7.21.2.1 require that all deliverables to be provided by the Subcontractor be provided in strict accordance with the provisions, specifications and terms of the Contract.

7.21.2.2 prohibit the Subcontractor from further subcontracting any portion of the Contract without the prior written consent of the City and the Contractor. The City may require, as a condition to such further subcontracting, that the Subcontractor post a payment bond in form, substance and amount acceptable to the City;

7.21.2.3 require Subcontractors to submit all invoices and applications for payments, including any claims for additional payments, damages or otherwise, to the Contractor in sufficient time to enable the Contractor to include same with its invoice or application for payment to the City in accordance with the terms of the Contract;

7.21.2.4 require that all Subcontractors obtain and maintain, throughout the term of their contract, insurance in the type and amounts specified for the Contractor, with the City being a named insured as its interest shall appear; and

7.21.2.5 require that the Subcontractor indemnify and hold the City harmless to the same extent as the Contractor is required to indemnify the City.

7.21.3 The Contractor shall be fully responsible to the City for all acts and omissions of the Subcontractors just as the Contractor is responsible for the Contractor's own acts and omissions. Nothing in the Contract shall create for the benefit of any such Subcontractor any contractual relationship between the City and any such Subcontractor, nor shall it create any obligation on the part of the City to pay or to see to the payment of any moneys due any such Subcontractor except as may otherwise be required by law.

7.21.4 The Contractor shall pay each Subcontractor its appropriate share of payments made to the Contractor not later than ten (10) calendar days after receipt of payment from the City.

7.22 Jurisdiction And Venue. The Contract is made under and shall be governed by the laws of the State of Texas, including, when applicable, the Uniform Commercial Code as adopted in Texas, V.T.C.A., Bus. & Comm. Code, Chapter 1, excluding any rule or principle that would refer to and apply the substantive law of another state or jurisdiction. All issues arising from this Contract shall be resolved in the courts of Travis County, Texas and the parties agree to submit to the exclusive personal jurisdiction of such courts. The foregoing, however, shall not be construed or interpreted to limit or restrict the right or ability of the City to seek and secure injunctive relief from any competent authority as contemplated herein.

7.23 **Invalidity.** The invalidity, illegality, or unenforceability of any provision of the Contract shall in no way affect the validity or enforceability of any other portion or provision of the Contract. Any void provision shall be deemed severed from the Contract and the balance of the Contract shall be construed and enforced as if the Contract did not contain the particular portion or provision held to be void. The parties further agree to reform the Contract to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this section shall not prevent this entire Contract from being void should a provision which is the essence of the Contract be determined to be void.

7.24 **Holidays.** The following holidays are observed by the City:

<u>Holiday</u>	<u>Date Observed</u>
New Year's Day	January 1
Martin Luther King, Jr.'s Birthday	Third Monday in January
President's Day	Third Monday in February
Memorial Day	Last Monday in May
Independence Day	July 4
Labor Day	First Monday in September
Veteran's Day	November 11
Thanksgiving Day	Fourth Thursday in November
Friday after Thanksgiving	Friday after Thanksgiving
Christmas Eve	December 24
Christmas Day	December 25

If a Legal Holiday falls on Saturday, it will be observed on the preceding Friday. If a Legal Holiday falls on Sunday, it will be observed on the following Monday.

7.25 **Survivability of Obligations.** All provisions of the Contract that impose continuing obligations on the parties, including but not limited to the warranty, indemnity, and confidentiality obligations of the parties, shall survive the expiration or termination of the Contract.

7.26 **Non-Suspension or Debarment Certification.** The City of Austin is prohibited from contracting with or making prime or sub-awards to parties that are suspended or debarred or whose principals are suspended or debarred from Federal, State, or City of Austin Contracts. By accepting a Contract with the City, the Vendor certifies that its firm and its principals are not currently suspended or debarred from doing business with the Federal Government, as indicated by the General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, the State of Texas, or the City of Austin.

7.27 **Incorporation of Documents. Section 0100, Standard Purchase Definitions,** is hereby incorporated into this Contract by reference, with the same force and effect as if they were incorporated in full text. The full text versions of this Section are available, on the Internet at the following online address:

https://assets.austintexas.gov/purchase/downloads/standard_purchase_definitions.pdf

7.28 **Order of Precedence.** The Contract includes, without limitation, the Solicitation, the Offer submitted in response to the Solicitation, the Contract award, the Standard Purchase Terms and Conditions, Supplemental Terms and Conditions if any, Specifications, and any addenda and amendments thereto. Any inconsistency or conflict in the Contract documents shall be resolved by giving precedence in the following order.

7.28.1 any exceptions to the Offer accepted in writing by the City;

7.28.2 the Supplemental Purchase Terms and Conditions;

7.28.3 the Standard Purchase Terms and Conditions;

7.28.4 the Offer and exhibits; within the Offer, drawings (figured dimensions shall govern over scaled dimensions) will take precedence over specifications or scope of work.

In witness whereof, the parties have caused duly authorized representatives to execute this Contract on the dates set forth below.

Veoci.com

By: Naiara Azpuri
Signature

Name: Naiara Apiri
Printed Name

Title: CISO & VP Sales

Date: 3/12/20

CITY OF AUSTIN

By: Gil Zilkha
Signature

Name: Gil Zilkha
Printed Name

Title: Contract Management Specialist IV

Date: March 12, 2020

List of Exhibits

Exhibit A	Veoci Proposal for Austin Water
Exhibit B	Non Discrimination Certification, Section 0800



VEOCI Proposal for Austin Water

Prepared for: Chuck Chapman

Prepared by: Ryan Nally

Date: February 27, 2020

Proposal number: GWS772242457





February 27, 2020

Chuck Chapman
Austin Water
625 E 10th St.
Austin, TX 78701

Dear Chuck:

Grey Wall Software, LLC ("Grey Wall") is pleased to offer Austin Water this proposal and agreement (this "Quote") for the use of Grey Wall's Veoci software and the services described herein (the "Services").

I. Scope, Term and Terms and Conditions

The Services will be available to Austin Water from April 1, 2020 through March 31, 2021 (the "Term") in exchange for the fees described in Article III below, and pursuant to the terms of Veoci's Subscription Terms and Conditions, Service Level Agreement and Support Agreement (collectively, the "Subscription Terms") which are attached hereto as Exhibit A, Exhibit B, and Exhibit C. This Quote incorporates the Subscription Terms in all respects, and together, this Quote and the Subscription Terms constitute the agreement between the parties.

The fees and terms offered herein are contingent upon execution and delivery to Grey Wall of a signed acceptance of this quote within thirty (30) days from the date of this Quote, otherwise this Quote shall be deemed null and void. In the event that Grey Wall countersigns this Quote, the foregoing sentence shall not be deemed to apply.

A. Software as a Service ("SaaS")

1. Applications

Austin Water plans to use Veoci for situational awareness, emergency management, drill exercises, business continuity planning, and internal mass notification.

2. Number of Users

During the Term, Austin Water is permitted to register a maximum of two hundred (200) identities as Veoci users. Subject to the Subscription Terms and the confidentiality obligations described in Article IV below, Austin Water may permit independent contractors and Austin Water clients to use the Services for Austin Water emergencies and related interactions with Austin Water only. One thousand (1000) additional Austin Water employees, and independent contractors beyond the users identified above, can be registered for occasional participation and for receipt of information from Veoci specifically for Austin Water emergencies.

3. Document Storage

Grey Wall will provide up to 100 GB (gigabytes) of online storage of documents, photos, and other electronic documentation ("Documents") to Austin Water.

4. Integrated Telephone & SMS Capability



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Veoci service includes the capability to automatically send and receive SMS and to dial global phone numbers as needed and also use text to speech conversion to read out messages. The SMS and phone calls from Veoci connect with users who may not be on-line and whose participation is urgently needed. Veoci integrates this service from a 3rd party supplier and charges can vary based on target country and type of connection. Domestic service to the US is included in the pricing; international calling to other countries is excluded.

B. Support and Training

1. Software Enhancements

Grey Wall will provide maintenance, support, and periodic enhancements to the Services pursuant to the Subscription Terms. Typically, Grey Wall pushes enhancements out in a two-week cycle; these changes are small and designed to make the introduction easy.

2. Training

Definitions:

"Administrators" are staff who will design and edit the Veoci system to build or maintain solutions/applications

"End Users" means people who will be utilizing the system functionally.

Two-day Administrator training sessions (Boot Camp Trainings) are typically scheduled monthly at various locations throughout the US. The fee is \$950 per person. We recommend administrators to attend Boot Camp Trainings, as they will be responsible for training End-Users.

Remote Administrator Trainings are also available. These trainings are similar to an on-site training but will exclude class exercises. Also, the content of Remote Trainings will vary slightly due to the changed medium and will be set up as multiple 90-minute sessions. These Remote Administrator Trainings and additional training sessions both on-line and on-site, are available at Grey Wall's standard professional service rates.

3. Implementation

Once the contact information of users is put into Veoci, Austin Water will be able to use the primary features of the system immediately out-of-the-box: real-time activity log, chat, maps, assigning and tracking tasks, general notification/response, file management, mobile access, etc. Some basic configuration of the data will be needed to make Veoci aware of the specific environment, resources, processes, plans and needs of Austin Water. This could include location and status of resources; dashboards for the EOC or management; workflows for processes; specific notification messages; pre-defined plans for various incidents, etc.

Grey Wall will assist and provide knowledge transfer to the primary Austin Water administrators/power users, to get Veoci configured for the Austin Water environment and needs, up to (50) hours of implementation services. We have found typical customers similar to Austin Water use this amount of services to be implemented and trained at a self-sufficient level.

As needed, additional training or professional services, both on-line and on-site, may be procured at Grey Wall's standard rates below.



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II. Financial Specifications

A. Fees & Term

Recognizing the value of Austin Water as a customer, Grey Wall offers Austin Water the following fees for the term specified in paragraph one of the Scope section of this Proposal:

Reoccurring Services and Fees:

Software Subscription for Veoci	\$ 42,500.00*
Software Subscription for Veoci – Mass Notification	\$ 0.00
Maintenance/Updates	\$ 0.00
Support	\$ 0.00
Hosting	\$ 0.00

One Time Services and Fees:

Training: Administrator Boot Camp (4 x \$950)	\$ 3,800.00
Austin Water-specific Branding	\$ 1,000.00
SSO Integration	\$ 1,000.00
Active Directory Integration	\$ 1,000.00
Implementation: 50 hrs x \$180/hr	\$ 9,000.00

Sales Tax	0.00**
TOTAL:	\$ 58,300.00

*Renewal of software subscription beginning April 1, 2021 will be \$46,750.00

**Plus, Applicable Sales Tax

B. Optional Services if requested

Standard Training and Consulting for 2020, and subject to change		
Item	Unit	Price
Veoci Hosted Bootcamp (New Haven, CT or other locations)	2 Days - Price per attendee	\$950, attendee pays for travel and expense \$950, client pays for trainer's travel and expense
Client Hosted Bootcamp	2 Days – Price per attendee (Min 8)	
Professional Services & Consulting	Hourly	\$180
Professional Services & Consulting – Senior	Hourly	\$250
Professional Services & Consulting – Enterprise	Hourly	\$200



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Organization Branding	Implementation	\$1,500
T&L (Without Air)	Per diem	\$300

III. Confidentiality

Austin Water shall not, without the prior written consent of Grey Wall, disclose publicly or to any third party (excluding employees of Austin Water with a need to know), the terms and conditions of this Quote or any related negotiations between the parties, except to the extent required by law.

IV. Exhibits A, B and C

A. Subscription Term and Conditions

1 Definitions

"Agreement" means these Subscription Terms and Conditions and any Order Form between the Customer and Grey Wall and such Agreement, shall be effective as of the effective date of the applicable Order Form.

"Confidential Information" means any information, maintained in confidence by the disclosing party, communicated in written or oral form, marked as proprietary, confidential or otherwise so identified, and any information that by its form, nature, content, or mode of transmission, a reasonable recipient would understand to be confidential or proprietary. Notwithstanding anything to the contrary, the Veoci Program and related documentation and the Service are Confidential Information of Grey Wall.

"Customer" means any customer who is party to an Order Form, Contract, or agreement for Veoci SaaS with Grey Wall.

"Customer Data" means all electronic data or information provided by Customer to the Service. "Grey Wall" means Grey Wall Software, LLC.

"Order Form" means the order form or quote for Services entered between Grey Wall and Customer, including any exhibits or schedules thereto.

"Primary Contact" means Customer's primary technical contact with Grey Wall in-connection-with the Service.

"Service" means Grey Wall's provision of the Veoci Program for access and use by Customer via <http://veoci.com>.



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"User Guide" means the online Veoci Program user manuals for the Service accessible via <http://veoci.com>, as updated by Grey Wall.

"Users" means the individuals who are authorized to access and use the Service and who have been provided user identifications and passwords by Customer (or by Grey Wall at Customer's request). Users may be Customer employees, Customer third party consultants, contractors or agents. (Third parties may access and use the Service solely for the benefit of Customer's internal business purposes in accordance with the provisions of this Agreement.)

"Veoci Program" means Grey Wall's virtual emergency operations center software program for team communication and collaboration.

"Virus" (i) any computer code designed to disrupt, disable, harm, or otherwise impede the operation of the Service, including Customer's access to the Service and processing of data using the Service, or the operation of any associated system or network, or (ii) any other similar harmful, malicious, or hidden procedures, routines, or mechanisms that would cause the Service to malfunction or cause damage to or corruption of data, storage media programs, equipment or communications, or otherwise interfere with operations.

2 Provision of Service

(a) Grey Wall will provide the Service to Customer in accordance with the terms of this Agreement. Grey Wall grants Customer a non-transferable and nonexclusive right to access and use the Service for the sole purpose of supporting the internal operations of Customer's business and to process Customer's own data.

(b) The following procedures will apply to the Service:

- (i) Grey Wall will send an email to Customer's Primary Contact setting forth the information necessary for initial use of the Service. Customer shall provide the information requested in such email to Grey Wall.
- (ii) Grey Wall will provide Service status and maintenance notifications by email to Customer's Primary Contact.
- (iii) Customer will notify Grey Wall via email at support@veoci.com with respect to any issues related to the Service.

(c) From time to time, with respect to the Service and at an additional fee, Grey Wall may offer additional functionality. Such additional functionality will be offered and agreed under a separate agreement between the parties. Customer hereby agrees that Customer's purchase of the Service pursuant to this Agreement is neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Grey Wall regarding future functionality or features.

(d) The Service may be accessed and used solely by a User whose identification and password may not be shared, accessed or used by any other person, company or entity. Unless otherwise specified in the applicable Order Form between the Customer and Grey Wall, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the applicable subscription term at the same pricing as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer



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require ongoing use of the Services.

3 Limitations and Processes

- (a) Third-party interfaces, software, hardware or other services which are associated with, or otherwise available through the Service shall be accessed and used by Customer and Users in their sole discretion. Grey Wall shall have no responsibility or liability with respect to Customer's or any Users' access to or use of any such items or for any act or omission of any such third-party provider.
- (b) Grey Wall's performance under this Agreement shall be excused as a result of Customer's (i) failure to comply with its obligations as set forth herein; (ii) failure to provide Grey Wall with information reasonably deemed by Grey Wall to be necessary to assist Grey Wall in its performance under this Agreement; or (iii) delay, prevention or interference with Grey Wall's performance under this Agreement.
- (c) During normal business hours and no more than twice per year, on reasonable advance notice, describing the purpose and scope of the request and in a manner that does not unreasonably interfere with Customer's business operations, Grey Wall or a Grey Wall-designated third-party may audit Customer's use of and access to the Service to verify Customer's compliance with this Agreement.

4 Customer Responsibilities

- (a) Customer will provide Grey Wall with the contact details for its Primary Contact on the effective date of this Agreement, and will notify Grey Wall of any changes as necessary on an ongoing basis. Customer is responsible for having the hardware and software adequate for use of the Service.
- (b) Customer is responsible for all activities that occur in, or are related to, User accounts and for Users' compliance with this Agreement. Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (ii) prevent unauthorized access to, or use of, the Service, and shall notify Grey Wall promptly of any unauthorized access or use; and (iii) comply with all applicable local, state, federal and territorial laws and regulations ("Laws") in accessing and using the Service.
- (c) Customer shall use the Service solely for its internal business purposes as contemplated by this Agreement and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Service available to any third party, other than to Users or as otherwise contemplated by this Agreement; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable Laws; (iii) send or store infringing, obscene, threatening, or otherwise unlawful material that is harmful to children or violates third party privacy rights; (iv) interfere with or disrupt the integrity or performance of the Service or the data contained in the Veoci Program; (v) use the Service to store or transmit any Viruses, (vi) attempt to gain unauthorized access to the Service or its related system or networks, or (vii) monitor the availability, performance or functionality of the Services, or access the Services for any other benchmarking or competitive purposes.
- (d) Customer is responsible for its compliance with all applicable data protection and privacy protection Laws. Customer represents to Grey Wall that: (i) it will provide only that personal data that it is authorized to provide to Grey Wall, and will do so lawfully in compliance with applicable Laws, (ii) Grey Wall or its



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subcontractors may process such data for the purposes described in this Agreement, and (iii) Grey Wall may disclose such data to its subcontractors for this purpose.

(e) Customer shall not access the Services, and Grey Wall may immediately terminate this Agreement, if Grey Wall determines, in its reasonable discretion, that Customer is a competitor of Grey Wall.

5 Fees and Payment

(a) Customer will pay Grey Wall the fees set forth in the Order Form for setup of User access to the Veoci Program, use of the Service and any other services or products described therein.

(b) All payments are due within forty-five (45) days from date of invoice. If Customer's account is thirty (30) days or more overdue, Grey Wall may suspend the Service upon at least two (2) business days' notice to Customer without liability until any such amounts are paid in full, in addition to any of its other rights or remedies.

(c) The fees and pricing agreed upon between the Customer and Grey Wall in the Order Form(s) assume that the Customer's labor force will remain substantially the same size during the term of this Agreement. Therefore, if (i) Customer's labor force experiences a material increase after the effective date of this Agreement, whether by acquisition, merger, consolidation, organic growth by hiring, or otherwise, and such Customer has purchased an unlimited User Service, Grey Wall may at its option terminate such Agreement and may offer the Service to the Customer on a per user basis at the rate indicated in the Veoci Program price list at that time.

6 Customer Data

(a) As between Grey Wall and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data. Customer Data is Confidential Information of Customer. Recovery of any Customer Data deleted by Customer shall be Customer's responsibility.

(b) Subject to Grey Wall's responsibilities set forth in Section 7, Grey Wall will not be responsible for any unauthorized access to or alteration, theft or destruction of Customer Data through accident, fraudulent means or devices, or any other method.

7 Confidentiality: Privacy

(a) In the course of performance under this Agreement, one party (the "Disclosing Party") may disclose, deliver or permit access by the other party (the "Receiving Party") to its Confidential Information. The Receiving Party shall hold the Disclosing Party's Confidential Information in strictest confidence and shall not disclose or provide such Confidential Information to any third party except as expressly provided in this Section. The Receiving Party shall not make any use of the Confidential Information except such limited uses as are required or permitted under this Agreement, and shall cause its employees, agents, financial advisors, attorneys, and Users to maintain such Confidential Information in complete confidence, and shall disseminate such Confidential Information only on a need to know basis. Upon expiration or termination of this Agreement, or at any time upon the Disclosing Party's request, the Receiving Party shall promptly return or, at the Disclosing Party's option, destroy all of the Disclosing Party's Confidential Information, and all copies of



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and other materials containing such Confidential Information. The Receiving Party shall have no obligation under this Section 7 with respect to any Confidential Information that the Receiving Party can demonstrate by reasonable written evidence: (i) was already known to it at the time of its receipt without restriction on its disclosure; (ii) is or becomes generally available to the public other than by breach of this Agreement; (iii) is independently obtained from a third party whose disclosure to the Receiving Party does not violate a duty of confidentiality; (iv) is independently developed without use or reference to any of the Disclosing Party's Confidential Information. If the Receiving Party is required by a court or other body of competent jurisdiction to disclose the Confidential Information, the Receiving Party may disclose only so much Confidential Information as is legally required, and the Receiving Party will promptly notify such compelled disclosure to the Disclosing Party if permitted by Law to do so.

(b) In the event of a breach of this Section 7, the Disclosing Party may not have an adequate remedy at Law. The Disclosing Party may seek temporary and/or permanent injunctions, specific performance or any other form of equitable relief. For the Veoci Program, the Service and any other trade secrets, the obligations of this Section 7 shall continue for so long as the information remains a trade secret, and for all other Confidential Information, the obligations shall extend for five (5) years from the expiration or termination of this Agreement.

8 Proprietary Rights

Grey Wall and its licensors (if any) shall retain all right, title, copyright, patent, trademark, trade secret and all other proprietary interests to the Veoci Program, the Service and to all Grey Wall intellectual property and any enhancements, modifications or derivatives of any of the foregoing. Customer may not distribute, promote, or otherwise use any information or materials relating to the Veoci Program or the Service for any external use without Grey Wall's prior written consent or as otherwise specifically permitted in this Agreement. No copyright, patent, trademark, trade secret or other right of intellectual property not expressly granted under this Agreement is exchanged between the parties. Subject to Customer's ownership of the Customer Data, Grey Wall retains all rights to any related work product delivered under this Agreement and Customer acknowledges and agrees that it obtains no rights to such work product. Customer shall not: (i) modify, copy or create derivative works based on the Veoci Program or the Service; (ii) frame or mirror any content forming part of the Veoci Program or the Service, other than on Customer's own intranets or otherwise for its own internal business purposes in accordance with this Agreement; (iii) reverse engineer the Veoci Program or the Service; or (iv) access or use the Veoci Program or the Service to build a competitive product or service, or copy any ideas, features, functions or graphics of the Veoci Program or the Service. Grey Wall shall own any and all rights to, and may use or incorporate into the Service, any suggestions, enhancement requests, recommendations or other feedback provided by Customer or its Users relating to the operation of the Service.

9 Warranty

(a) Each party represents and warrants to the other that it has the power and authority to enter into and perform its obligations under this Agreement.

(b) Grey Wall represents and warrants to Customer that: (i) it owns or otherwise has sufficient rights in the Veoci Program to grant to Customer the rights to access and use the Service granted in this Agreement, and (ii) it has taken commercially reasonable steps to test the Service for Viruses.

(c) GREY WALL DOES NOT REPRESENT OR WARRANT THAT ALL ERRORS WILL BE CORRECTED OR



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THAT THE VEOCI PROGRAM WILL RUN ERROR FREE OR UNINTERRUPTED. EXCEPT AS EXPRESSLY SET FORTH ABOVE, TO THE EXTENT PERMITTED BY LAW, NO OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED THIRD-PARTY WARRANTIES OR IMPLIED WARRANTIES OF MERCHANTABILITY, SUITABILITY, SATISFACTORY QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE, ARE MADE BY GREY WALL AND GREY WALL MAKES NO WARRANTIES WITH RESPECT TO ANY HARDWARE EQUIPMENT OR THIRD-PARTY SOFTWARE THAT GREY WALL MAY USE TO PROVIDE THE SERVICE OR CUSTOMER MAY USE TO ACCESS THE SERVICE.

(d) Customer represents and warrants to Grey Wall that: (i) Customer has the right to transmit to Grey Wall, and receive from Grey Wall, all data, material and records, including the Customer Data that Customer provides to Grey Wall and that are required to enable Grey Wall to perform the Service and any other of its obligations under this Agreement; and (ii) it will use reasonable commercial efforts to prevent the inclusion of Viruses while it and its Users access the Service.

10 Limitation of Liability

(a) Except for death or personal injury and Grey Wall's indemnity obligations in Section 11, Grey Wall's liability for direct damages, loss or liability for any cause, and regardless of the form of action will be limited to the total amount of fees payable by Customer under this Agreement over the six (6) months prior to the date that the action arose.

(b) THE REMEDIES PROVIDED IN THE AGREEMENT TO CUSTOMER ARE THE CUSTOMER'S EXCLUSIVE REMEDIES. EXCEPT WITH RESPECT TO ITS INDEMNIFICATION OBLIGATIONS IN SECTION 11, IN NO EVENT SHALL GREY WALL BE LIABLE TO THE CUSTOMER OR ANY OTHER PARTY, WHETHER IN CONTRACT, TORT, OR OTHERWISE, FOR ANY INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY, SPECIAL, CONSEQUENTIAL OR UNFORESEEABLE LOSS, DAMAGE OR EXPENSE, LOSS OF PROFITS, LOSS OF BUSINESS, LOSS OF OPPORTUNITY, LOSS OR CORRUPTION OF DATA, HOWEVER ARISING, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES BEING INCURRED.

11 Indemnification

(a) Grey Wall agrees to defend and indemnify Customer from and against, or at its option settle, any third-party claims (each a "Claim") that the Service or the Veoci Program alone, and not in combination with any other product or program, infringes any third-party intellectual property rights. Grey Wall may, at its option and at its own cost, procure for Customer the right to continue to use the Service; repair, modify or replace the Service or Veoci Program so that it is no longer infringing; or provide a pro rata refund of the fees paid based on the then-current term. Grey Wall shall have no liability under this Section if the allegation of infringement is a result of: (i) a modification of the Veoci Program by anyone other than Grey Wall, (ii) the Customer or any User not using the Service in accordance with the User Guide, (iii) or a work product that was produced at Customer's specific direction. THE FOREGOING STATES GREY WALL'S ENTIRE LIABILITY AND OBLIGATIONS REGARDING CLAIMS OF INFRINGEMENT, AND THE EXCLUSIVE REMEDY AVAILABLE TO CUSTOMER WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR OTHER PROPRIETARY RIGHTS.

~~(b) Customer, to the extent permitted by law, agrees to defend and indemnify Grey Wall from and against, or at its option settle, all Claims made or brought against Grey Wall. (i) arising out of Customer's use of the Service, (ii) alleging that the Customer Data, Customer's materials or records, or Customer's use of the Service in violation of this Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party, or (iii) alleging that Grey Wall's use of the Customer Data as contemplated in this Agreement is~~



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~~not authorized.~~

(c) A party's indemnification obligation is contingent upon: (i) the indemnified party providing prompt notice to the indemnifying party of any such Claim and assistance in its defense; (ii) the indemnifying party's sole right to control the defense or settlement of any such Claim, except that any settlement requiring a payment or admission of liability on the part of the indemnified party is subject to the indemnified party's prior approval, not to be unreasonably withheld or delayed; and (iii) that the indemnified party shall not take any action or omit to take action that hinders the defense or settlement process, as reasonably directed by the indemnifying party.

12 Termination

~~This Agreement commences on the start date specified in the Term and will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter) unless either party gives the other notice of non-renewal at least sixty days before the end of the relevant subscription term. The pricing during any automatic renewal will be the same as that during the immediately prior term unless Grey Wall gives Customer a written notice of a price increase at least sixty (60) days before the end of the prior term, in which case the pricing increase will be effective upon renewal and thereafter. Any such pricing increase shall not exceed ten percent (10%) of the pricing for the prior year unless the pricing in the prior year was designated as promotional or special rate.~~

This Agreement commences on the start date specified in the Term. Either party shall have the right to terminate this agreement (i) upon thirty (30) days written notice to the other party of a material breach of this Agreement, and such breach remains uncured at the expiration of such period after which written notice is given to the breaching party; or (ii) subject to any applicable mandatory Law, if a party becomes insolvent or if bankruptcy or receivership proceedings are initiated by or against a party; (iii) In addition to any termination rights in the Subscription Terms, customer shall have the right to terminate this Quote for any reason in its sole discretion by giving a sixty (60) day written notice to Grey Wall at any time during the term. If Customer gives Grey Wall a notice of termination as described in this section, Grey Wall will cease to perform the Services at the end of Term using reasonable care in concluding its Provision of Services. Upon termination of the agreement, however caused, Customer shall: (a) Pay to Grey Wall all outstanding invoices and sums owed which have accrued up to the end of the current term at the time of termination. If customer has paid for services up front, Grey Wall will return the moneys paid for unused quarters (3 month periods) (b) at Grey Wall's option, either return to Grey Wall or destroy all confidential information which it has obtained from Grey Wall, and (c) have no claims for damages or compensation for loss of goodwill or like thereof against Grey Wall.

13 Waiver of Jury Trial

THE PARTIES HEREBY IRREVOCABLY WAIVE, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL RIGHTS TO TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM RELATING TO THIS AGREEMENT.

14 Choice of Law

The Agreement shall be construed and governed in accordance with the laws of the State of ~~Connecticut~~ ^{Texas} (Excluding its conflict of laws provisions).

15 Miscellaneous



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- (a) Customer may not assign this Agreement, the use of the Service or any other of its rights and obligations under this Agreement without Grey Wall's prior written consent. This Agreement shall be binding on the parties and their respective successors and assigns. Grey Wall shall have the unrestricted right to (i) assign all of its rights and obligations under this Agreement, and (ii) subcontract all or part of its performance under this Agreement.
- (b) Customer shall not export or use the Service in violation of applicable Laws.
- (c) The Services, other technology that Grey Wall makes available, and derivatives thereof, may be subject to export laws and regulations of the United States and other jurisdictions. Customer represents that it is not named on any U.S. government denied-party list. Customer shall not permit Users to access or use Services in a U.S.-embargoed country or in violation of any U.S. export law or regulation.
- (d) Neither party is an agent or contractor of the other, and this Agreement does not confer or delegate upon a party any discretionary authority or control on behalf of the other party.
- (e) Each party shall be excused from performance of its obligations under this Agreement for any period and to the extent that it is prevented from performing such obligations, in whole or in part, as a result of delays caused by circumstances beyond its reasonable control, including an act of God, severe weather, hurricane, earthquake, flood, war, civil disturbance or civil commotion, terrorism, court order, or any other cause over which such party does not have control, including internet or communication problems (including an internet service provider's or hosting facility's failures or delays involving hardware, software or power systems not within Grey Wall's possession or reasonable control), third-party hardware or software errors, Viruses or similar harmful programs or data, or unauthorized access or theft (any of the foregoing, a "Force Majeure Event").
- (f) All documents referenced in this Agreement, including the Order Form(s), are a part of this Agreement. All other prior or contemporaneous agreements, proposals, purchase orders, representations and other understandings, whether oral or written, related to the Service are superseded by this Agreement. No alteration or modification of this Agreement will be valid unless made in a writing signed by the parties.
- (g) There shall be no third-party beneficiaries to this Agreement.
- (h) All notices required or permitted under this Agreement hereunder shall be delivered to the other party either personally, or by telefax, email, certified or registered mail (return receipt requested), or overnight courier. If delivered personally, notice shall be effective when delivered; if delivered by telefax or email, notice shall be effective upon electronic confirmation; and if delivered by mail or overnight courier, notice shall be effective upon confirmation of delivery.
- (i) The section headings in this Agreement are for informational purposes only and shall not affect the interpretation of any provision of this Agreement. When used in this Agreement, "including" and word(s) of similar import mean "including without limitation."
- (j) If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, it shall be deemed severed from this Agreement and shall not affect in any respect the remainder of this Agreement.
- (k) The sections entitled "Warranty," "Limitation of Liability," "Customer Data," "Fees and Payment," "Indemnification," "Confidentiality; Privacy," "Proprietary Rights" and Customer's obligation to pay any outstanding fees due shall survive expiration or termination of this Agreement.



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B. Service Level Agreement

Capitalized terms that are not otherwise defined in this Exhibit B shall have the meaning set forth in the Subscription Terms and Conditions.

1. Introduction

The measurements and service levels set forth in this Exhibit B are designed to provide an objective measurement of Grey Wall's performance of the Service (each an "SLA"; collectively, "SLAs"). The SLAs may be reviewed and adjusted as mutually agreed upon in writing by the parties.

2. Reporting

Grey Wall agrees to provide to Customer, within sixty days of its receipt of a written request from Customer, a quarterly electronic report to verify Grey Wall's performance against the SLAs. Grey Wall agrees to investigate and correct failures to meet the SLAs by:

- (i) initiating investigations to determine the root cause of the failure;
- (ii) using commercially reasonable efforts to correct the issue;
- (iii) advising Customer as reasonably requested by Customer of the status of efforts being undertaken with respect to the issue; and,
- (iv) providing reasonable evidence to Customer that the cause of the issue is being corrected or will be corrected.

3. SLA Definitions and Measurements

"Minor Default" is deemed to occur when Grey Wall's performance against an SLA falls in the range of performance in which a minimum SLA credit is granted to Customer.

"Major Default" is deemed to occur when Grey Wall's performance against an SLA falls in range of performance in which a maximum SLA default credit is granted to Customer.

"Scheduled Downtime," means the planned downtime, of which Grey Wall has notified Customer at least 72 hours in advance.

"Service Level Default" means that Grey Wall's performance fell below the established SLA during a measurement period.

"Service Level Credit" means the amount of additional Service the Customer will be credited for the applicable Service Level Default during the measurement period.



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"Target Service Level" means the expected performance range, within which no Service Level Default is assessed, and no Service Level Credit is granted.

Measurement periods are monthly, in arrears, with Service Level Defaults and Service Level Credits being calculated monthly. Any Service Level Credits shall be credited to the Customer annually in arrears, as applicable.

The SLA's set forth in this Exhibit shall be Customer's sole and exclusive remedy related to the SLA default and such Service Level Credits are in lieu of other available remedies such as damages for breach of contract.

4. Exceptions

The following items will not be considered as a part of the calculation of Service Level Credits and Grey Wall will be relieved of responsibility for SLAs and associated Service Level Credits to the extent Grey Wall's failure to meet the SLA(s) is determined by the parties, to be due to:

- (i) Force Majeure Events as defined in the Agreement
- (ii) Outages resulting from Scheduled Downtime, including Grey Wall's upgrading of data center infrastructure
- (iii) Outages arising from Customer's network being inaccessible
- (iv) Domain Name Server (DNS) issues outside of the control of Grey Wall
- (v) Customer's acts or omissions (including acts or omissions of a third party not acting on behalf of Grey Wall), including, without limitation, custom configuration, scripting, coding, negligence, failure to timely perform or provide relevant assistance, information or infrastructure required of Customer or willful misconduct
- (vi) Internet outages, or other third party infrastructure outages which hinder access to Grey Wall's environment
- (vii) Outages requested by Customer
- (viii) Changes by Customer, or its agents, to Customer's environment which are not communicated to Grey Wall and which adversely impact Grey Wall's ability to perform the Service.
- (ix) Inability of Customer to log in due to Customer's use of LDAP or other single sign-on methods to control authentication.

5. Service Level Measurement

Service Area: Production Uptime

Objective: Grey Wall to provide 99.5% monthly uptime for Production Software Instances

Measurement: For Production availability, the Production downtime shall be measured as the aggregate number of minutes during the monthly measurement period in which the Service was unavailable, divided by the total number of minutes in the monthly measurement period. The period of unavailability shall be measured from the point-in-time that such unavailability is or reasonably should have been detected by Grey Wall.



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(Uptime % = $[1 - (\text{downtime} / \text{Production}) * 100\%]$). For example, if hosting is unavailable for a total of 200 minutes in a 30-day month, then Production Uptime is $[1 - (200 / 43,200) * 100\%] = 99.5\%$

Target Service Level: Production Uptime is greater than or equal to 99.95%

Minor Default: Production Uptime is less than 99.95% but greater than or equal to 98%

Major Default: Production Uptime is less than 98%

Measurement Period: Measured on a monthly basis. Grey Wall will measure the Production Uptime for each downtime event and in the aggregate each month during the Term, and, upon written request of Customer, report the results to Customer within ten (10) business days of the of the request.

Service Level Credits: Minor Default = credit of one (1) additional day of the Service as an extension of the term of the Agreement.

Major Default = credit of two (2) additional days of the Service as an extension of the term of the Agreement.

C. Support Agreement

Included Support:

- **Support Center.** The Veoci team will provide support from a support center via e-mail, an Internet based Client support tool (English version only), and telephone. All support services shall be provided in English language, unless otherwise specified in this Agreement.
 - Phone: <to be provided>
 - Internet based Client support tool: <to be provided>
 - Email: <to be provided>
- **Hours of Support Center Operation.** Support center is available twenty-four (24) hours per day, seven (7) days per week
- **Requesting Support.**
 - Customer will identify the severity level (defined below) of the incident when requesting support from the support center
 - If all support center representatives are busy with other calls, a message will be left on the voicemail response system, which will page appropriate support personnel
 - The Veoci team will target to meet and exceed defined service level metrics defined in this Exhibit

Non-Critical Issue: System performance or bug affecting some users that **does not** prevent a customer from using the software to respond to a crisis.

Response Time: 2 business days

Channel: Email, web, or general support phone number.

Critical Issue: System performance or bug affecting all users that prevents a customer from using the software to respond to a crisis.



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Response time: 2 business hours

Channel: Email, web, or general support phone number

Crisis Issue: System outage or severe bug preventing customer from using the software during their response to a crisis.

Response Time: 30 minutes (24x7)

Channel: Emergency phone number

Crisis Support: General questions, support, or assistance in the instance where: the Veoci system is fully operational, it is outside of Veoci's normal business hours, but the customer is responding to a crisis and needs support.

Response Time: 30 minutes (24x7). May be subject to \$200 hourly rate.

Channel: Emergency phone number

Business Hours: M-F 1:30AM -7PM Eastern Time

The parties hereto, intending to be legally bound hereby, have each caused its duly authorized officers or representatives to sign this Quote as of the date first set forth above.

Grey Wall Software, LLC

Austin Water

By: Naiara Azpiri
Title: CISO and VP of Sales

By:
Title:
Date:



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EXHIBIT B
City of Austin, Texas
NON-DISCRIMINATION AND NON-RETALIATION CERTIFICATION

City of Austin, Texas
Equal Employment/Fair Housing Office

To: City of Austin, Texas,

I hereby certify that our firm complies with the Code of the City of Austin, Section 5-4-2 as reiterated below, and agrees:

- (1) Not to engage in any discriminatory employment practice defined in this chapter.
- (2) To take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without discrimination being practiced against them as defined in this chapter, including affirmative action relative to employment, promotion, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training or any other terms, conditions or privileges of employment.
- (3) To post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Equal Employment/Fair Housing Office setting forth the provisions of this chapter.
- (4) To state in all solicitations or advertisements for employees placed by or on behalf of the Contractor, that all qualified applicants will receive consideration for employment without regard to race, creed, color, religion, national origin, sexual orientation, gender identity, disability, sex or age.
- (5) To obtain a written statement from any labor union or labor organization furnishing labor or service to Contractors in which said union or organization has agreed not to engage in any discriminatory employment practices as defined in this chapter and to take affirmative action to implement policies and provisions of this chapter.
- (6) To cooperate fully with City and the Equal Employment/Fair Housing Office in connection with any investigation or conciliation effort of the Equal Employment/Fair Housing Office to ensure that the purpose of the provisions against discriminatory employment practices are being carried out.
- (7) To require of all subcontractors having 15 or more employees who hold any subcontract providing for the expenditure of \$2,000 or more in connection with any contract with the City subject to the terms of this chapter that they do not engage in any discriminatory employment practice as defined in this chapter

For the purposes of this Offer and any resulting Contract, Contractor adopts the provisions of the City's Minimum Standard Non-Discrimination and Non-Retaliation Policy set forth below.

City of Austin
Minimum Standard Non-Discrimination and Non-Retaliation in Employment Policy

As an Equal Employment Opportunity (EEO) employer, the Contractor will conduct its personnel activities in accordance with established federal, state and local EEO laws and regulations.

The Contractor will not discriminate against any applicant or employee based on race, creed, color, national origin, sex, age, religion, veteran status, gender identity, disability, or sexual orientation. This policy covers all aspects of employment, including hiring, placement, upgrading, transfer, demotion, recruitment, recruitment advertising, selection for training and apprenticeship, rates of pay or other forms of compensation, and layoff or termination.

The Contractor agrees to prohibit retaliation, discharge or otherwise discrimination against any employee or applicant for employment who has inquired about, discussed or disclosed their compensation.

Further, employees who experience discrimination, sexual harassment, or another form of harassment should immediately report it to their supervisor. If this is not a suitable avenue for addressing their complaint, employees are advised to contact another member of management or their human resources representative. No employee shall be discriminated against, harassed, intimidated, nor suffer any reprisal as a result of reporting a violation of this policy. Furthermore, any employee, supervisor, or manager who becomes aware of any such discrimination or harassment should immediately report it to executive management or the human resources office to ensure that such conduct does not continue.

Contractor agrees that to the extent of any inconsistency, omission, or conflict with its current non-discrimination and non-retaliation employment policy, the Contractor has expressly adopted the provisions of the City's Minimum Non-Discrimination Policy contained in Section 5-4-2 of the City Code and set forth above, as the Contractor's Non-Discrimination Policy or as an amendment to such Policy and such provisions are intended to not only supplement the Contractor's policy, but will also supersede the Contractor's policy to the extent of any conflict.

UPON CONTRACT AWARD, THE CONTRACTOR SHALL PROVIDE THE CITY A COPY OF THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICIES ON COMPANY LETTERHEAD, WHICH CONFORMS IN FORM, SCOPE, AND CONTENT TO THE CITY'S MINIMUM NON-DISCRIMINATION AND NON-RETALIATION POLICIES, AS SET FORTH HEREIN, **OR** THIS NON-DISCRIMINATION AND NON-RETALIATION POLICY, WHICH HAS BEEN ADOPTED BY THE CONTRACTOR FOR ALL PURPOSES WILL BE CONSIDERED THE CONTRACTOR'S NON-DISCRIMINATION AND NON-RETALIATION POLICY WITHOUT THE REQUIREMENT OF A SEPARATE SUBMITTAL

Sanctions:

Our firm understands that non-compliance with Chapter 5-4 and the City's Non-Retaliation Policy may result in sanctions, including termination of the contract and suspension or debarment from participation in future City contracts until deemed compliant with the requirements of Chapter 5-4 and the Non-Retaliation Policy.

Term:

The Contractor agrees that this Section 0800 Non-Discrimination and Non-Retaliation Certificate of the Contractor's separate conforming policy, which the Contractor has executed and filed with the City, will remain in force and effect for one year from the date of filing. The Contractor further agrees that, in consideration of the receipt of continued Contract payment, the Contractor's Non-Discrimination and Non-Retaliation Policy will automatically renew from year-to-year for the term of the underlying Contract.

Dated this 12th day of March, 2020

CONTRACTOR
Authorized
Signature

Naiara Azpiri

Naiara Azpiri

Title

CISO & VP Sales