



BOARD OF SUPERVISORS AGENDA ITEM REPORT  
AWARDS / CONTRACTS / GRANTS

Award    Contract    Grant

Requested Board Meeting Date: 04/18/2023

or Procurement Director Award:

\* = Mandatory, information must be provided

**\*Contractor/Vendor Name/Grantor (DBA):**

Miovision Technologies Inc. (Headquarters: Kitchener, ON)

**\*Project Title/Description:**

Miovision Signal Analytics Equipment

**\*Purpose:**

Award: Master Agreement No. MA-PO-23-163. This Master Agreement is for an initial term of one (1) year in the annual award amount of \$1,500,000.00 (including sales tax) and includes four (4) one-year renewal options. Administering Departments: Information Technology and Transportation.

**\*Procurement Method:**

Pursuant to Pima County Procurement Code 11.12.050, Sole Source Procurement, award of Requisition No.23-175 is recommended to Miovision Technologies Inc., with which County has negotiated an acceptable Agreement.

PRCUID: 478405

Attachment: Master Agreement.

**\*Program Goals/Predicted Outcomes:**

Optimize commuter travel times through signalized intersections and major street corridors. Additionally, to provide valuable analytic data and information for turning movement counts, volume density, arrivals on red, and travel times.

**\*Public Benefit:**

This equipment will provide real time data to better evaluate signal timing and signal coordination. This will benefit the public by providing measurable data to time traffic signal intersections more efficiently and will reduce travel times

**\*Metrics Available to Measure Performance:**

Analytics will allow Pima County to review performance of signal timing changes utilizing the wireless network to better serve Pima County corridor.

**\*Retroactive:**

No.

To: COB 04-03-23<sup>(1)</sup>  
Pgs: 27  
Vers: 1

THE APPLICABLE SECTION(S) BELOW MUST BE COMPLETED

Click or tap the boxes to enter text. If not applicable, indicate "N/A". Make sure to complete mandatory (\*) fields

Contract / Award Information

Document Type: MA Department Code: PO Contract Number (i.e., 15-123): 23-163
Commencement Date: 04/18/2023 Termination Date: 04/17/2024 Prior Contract Number (Synergen/CMS):
Expense Amount \$ 1,500,000.00 \* Revenue Amount: \$

\*Funding Source(s) required: Transportation Fund

Funding from General Fund? Yes No If Yes \$ % 0
Contract is fully or partially funded with Federal Funds? Yes No
If Yes, is the Contract to a vendor or subrecipient?
Were insurance or indemnity clauses modified? Yes No
If Yes, attach Risk's approval.
Vendor is using a Social Security Number? Yes No
If Yes, attach the required form per Administrative Procedure 22-10.

Amendment / Revised Award Information

Document Type: Department Code: Contract Number (i.e., 15-123):
Amendment No.: AMS Version No.:
Commencement Date: New Termination Date:
Prior Contract No. (Synergen/CMS):
Expense Revenue Increase Decrease
Amount This Amendment: \$
Is there revenue included? Yes No If Yes \$
\*Funding Source(s) required:
Funding from General Fund? Yes No If Yes \$ %

Grant/Amendment Information (for grants acceptance and awards)

Award Amendment

Document Type: Department Code: Grant Number (i.e., 15-123):
Commencement Date: Termination Date: Amendment Number:
Match Amount: \$ Revenue Amount: \$
\*All Funding Source(s) required:
\*Match funding from General Fund? Yes No If Yes \$ %
\*Match funding from other sources? Yes No If Yes \$ %
\*Funding Source:

\*If Federal funds are received, is funding coming directly from the Federal government or passed through other organization(s)?

Contact: Procurement Officer, Brandon Morgan Acting Division Manager, Troy McMaster
Department: Procurement Director, Terri Spencer
Department Director Signature: Javier Baca
Deputy County Administrator Signature:
County Administrator Signature:

Handwritten signatures of Brandon Morgan, Terri Spencer, and Javier Baca.

Date: 3/31/2023
Date: 3/31/2023



# MASTER AGREEMENT

## PIMA COUNTY, ARIZONA

THIS IS NOT AN ORDER - TRANSMISSION CONSTITUTES  
CONTRACT EXECUTION

Master Agreement No: 2300000000000000163

MA Version: 1

Page: 1 of 5

Description: Miovision Signal Analytics Equipment

I S S U E R	Pima County Procurement Department
	150 W. Congress St. 5th Fl
	Tucson AZ 85701
	<b>Issued By:</b> BRANDON MORGAN
	<b>Phone:</b> 5207249510
	<b>Email:</b> brandon.morgan@pima.gov

T E R M S	<b>Initiation Date:</b> 04-18-2023
	<b>Expiration Date:</b> 04-17-2024
	<b>NTE Amount:</b> \$1,500,000.00
	<b>Used Amount:</b> \$0.00

V E N D O R	<b>Miovision Technologies Incorporated</b>	<b>Contact:</b> Meghan Reitsma
	137 Glasgow St. Ste 110	<b>Phone:</b> 519-513-2407
	Kitchener ON N2G 4X8	<b>Email:</b> mreitsma@miovision.com
		<b>Terms:</b> 0.00 %
		<b>Days:</b> 30

<b>Shipping Method:</b>	Vendor Method
<b>Delivery Type:</b>	
<b>FOB:</b>	FOB Dest, Freight Prepaid
<b>Modification Reason</b>	
This Master Agreement is for an initial term of one (1) year in the annual award amount of \$1,500,000.00 (including sales tax) and includes four (4) one-year renewal options.	
Attachment: Offer Agreement.	

This Master Agreement incorporates the attached documents, and by reference all instructions, Standard Terms and Conditions, Special Terms and Conditions, and requirements that are included in or referenced by the solicitation documents used to establish this agreement. All transactions and conduct are required to conform to these documents.



# MASTER AGREEMENT DETAILS

Master Agreement No: 2300000000000000163

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Line	Description					
1	<b>Miovision SmartView 360</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2,000.00			
2	<b>Miovision Core</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$3,095.00			
3	<b>Miovision Core DCM</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$11,650.00			
4	<b>Miovision SmartView Approach</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1,795.00			
5	<b>TrendNet TI-PG541i 4 port PoE Switch, power supply &amp; cables</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$515.00			
6	<b>GTT System Management per year</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$24,240.00			
7	<b>GTT Vehicle Service per vehicle per year</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$528.00			
8	<b>GTT Intersection Service, per intersection/per yera</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$552.00			
10	<b>Miovision Scout Explore Video Collection Unit</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$7,500.00			
11	<b>Additional Scout Explore Battery</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$750.00			
12	<b>UPS- UPS Standard</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$192.00			
13	<b>Intersection Count (1 hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$22.80			
14	<b>Intersection Count with Premium Class (1 hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$22.60			
15	<b>Crosswalk Data (1 hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2.00			
16	<b>Intersection Count 24+ hour study (1 hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$16.67			
17	<b>Intersection Count 24+ hour study w Premium Class (1 hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$18.00			
18	<b>Travel Time Report Generation (1 hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$15.00			
19	<b>Travel Time Report Generation (24 hours)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$12.50			
20	<b>Road Volume Count (1 lane hour)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2.00			



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Line	Description					
21	Road Volume Count w Premium Class (1 lane hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$3.00			
22	Small Roundabout (1 hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$36.00			
23	Small Roundabout w Premium Class (1 hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$39.00			
24	Large Roundabout (1 hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$76.00			
25	Large Roundabout w Premium Class (1 hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$79.00			
26	Pathway Volume (1 lane hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$6.00			
27	Junction Count (1 hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$18.00			
28	Vehicle Gap Count (1 hour)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$29.00			
29	Intersection Right Turn on Red					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$2.00			
30	Rush Turnaround- 48 hours					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$3.00			
31	Rush Turnaround- 24 hours					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$7.00			
32	Camera Mount - Bell Only					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$150.00			
33	Camera Mount (no extension)- Horizontal Clamp hub					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$280.00			
34	Camera Mounting Hub - Banding					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$105.00			
35	Camera Mounting Hub - Clamp					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$125.00			
36	Cellular Antenna (Rabbit Ear Style)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$30.00			
37	Miovision SmartLink Hard Drive Upgrade 512GB					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$700.00			
38	PoE Power Injector (Inline)					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$800.00			
39	Power Adapter for SmartLink & Interface					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$60.00			



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Line	Description					
40	<b>Power Adapter for SmartSense</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$115.00			
41	<b>SDLC Y-Cable</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$79.00			
42	<b>TrafficLink Antenna</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$250.00			
43	<b>TrafficLink Interface (SDLC)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1,000.00			
44	<b>TrafficLink Network Integration (NA)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$5,000.00			
45	<b>Universal Camera Extension</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$400.00			
46	<b>Universal Camera Mount w/Universal Hub</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$480.00			
47	<b>Universal Hub</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$200.00			
48	<b>TrafficLink Performance Measures (12 months)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$630.00			
49	<b>TrafficLink Continuous Counts (12 months)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$630.00			
50	<b>Miovision Detection License</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$3,000.00			
51	<b>Miovision Detection Plus License</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$6,500.00			
52	<b>TrafficLink Intersection Monitoring (12 months)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$175.00			
53	<b>Managed LTE Connectivity 1GB</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$171.00			
54	<b>Managed LTE Connectivity 2GB</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$331.00			
55	<b>Managed LTE Connectivity 5GB</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$743.00			
56	<b>Managed LTE Connectivity 10GB</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1,149.00			
57	<b>Installation (Rapidflow) per intersection</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1,000.00			
58	<b>Rapid Flow Maintenance &amp; Support (per intersection/year)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$1,500.00			



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Line	Description					
59	<b>Miovision Adaptive Traffic Signal Control System</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$16,000.00			
60	<b>EVP Subscription Services (Miovision fee)/intersection</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$126.00			
61	<b>Traffop Signal Performance Measures (intersection/year)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$750.00			
62	<b>Traffop Signal Performance Measures (setup/intersection)</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$250.00			
63	<b>Miovision Core Priority IO Cable</b>					
	Discount	UOM	Unit Price	Stock Code	VPN	MPN
	0.0000 %	EA	\$25.00			

## OFFER AGREEMENT

### 1. PURPOSE

This contract establishes a system-generated form Master Agreement (“MA”) for Contractor to provide Pima County (“County”) with Miovision hardware and software on an “as required basis” by issue of Delivery Order (“DO”) or Delivery Order Maximo (“DOM”).

### 2. CONTRACT TERM, RENEWALS, EXTENSIONS and REVISIONS

The MA will document the commencement date of the contract, and will be for a one (1) year period with four (4) one-year renewal options that the parties may exercise as follows: County will issue contract extensions, renewals, or revisions to Contractor with a revised MA document. Contractor must object in writing to the proposed revisions, terms, conditions, scope modifications and/or specifications within ten (10) calendar days of issuance by County. If Contractor does not notify county of any objections within that timeframe, the revision(s) will be binding on the parties.

### 3. CONTRACTOR MINIMUM QUALIFICATIONS

Contractor certifies that it is competent, willing, and responsible for performing the services or providing the products in accordance with the requirements of this contract. Contractor certifies that it possesses all licenses required by applicable Agencies to satisfy the requirements of this contract.

### 4. PRODUCT OR SERVICE SPECIFICATIONS & SCOPE OF WORK

Contractor shall provide Miovision Signal Analytics hardware and software for County at a mutually agreed upon price. The hardware and software will satisfy the General Specifications below.

#### 4.1. General Specifications

- Corridor Performance Measures: travel time, congestion monitoring.
- Signal Performance Measures: approach volumes, occupancy ratios, arrivals on red/green, split failure.
- Summary Reports: Corridor Performance Dashboards and Executive Reporting.
- Automated Traffic Counts through Video Processing: leveraging the Spectrum 360 video camera for Turning Movement Counts and volumes for vehicles, trucks, bikes, pedestrians, etc.
- Signalized intersection stop bar and advanced vehicle detection.
- Signal equipment/hardware health report-operation status and maintenance alerts.

#### 4.2. Item Specifications

This is a “**no substitute**” contract. Contractor must provide items that conform to the specifications and requirements herein. Substitution of any item for an equivalent item is not permitted, and County will not allow any deviations.

### 5. SUSTAINABILITY

In accordance with Board of Supervisors Resolution 2007-84, Pima County values and highly encourages contractors to utilize sustainable practices. Please **CHECK** any of the following that your business incorporates:

- Waste prevention/reduction or material recycling/reuse.
- Alternative energy/fuels (such as solar/wind energy; bio-diesel; alternative fuels; hybrid vehicles) in your program’s preparation, transportation, and demonstration.
- Environmentally preferable materials (such as recycled materials; locally produced/manufactured products).
- Sustainable practices that lessen impact on non-renewable resources and global climate change (such as reduction in water/energy/paper use; minimization of hazardous materials; use of compressed/flexible work schedules).
- Other practices which coincide with County’s definition of sustainable practices (such as alternative modes of transportation; transportation minimization; life-cycle costs; product/packaging “take back” practices; preference to firms located with Pima County).

### 6. OFFER ACCEPTANCE & ORDER RELEASES

County will accept offer and execute this contract by issuing an MA (recurring requirements) to be effective on the document’s date of issue without further action by either party. The MA will include the term of the contract.



Pursuant to the executed MA, County departments requiring the goods or services described herein will issue a DO or DOM to the Contractor. County will furnish the DO or DOM to Contractor via facsimile, e-mail or telephone. **If County gives the order verbally, the County Department issuing the order will transmit a confirming order document to Contractor within five (5) workdays of the date it gives the verbal order.**

**Contractor must not supply materials or services that are not specified on the MA and are not documented or authorized by a DO or DOM at the time of provision. County accepts no responsibility for control of or payment for materials or services not documented by a County DO or DOM.**

Contractor will establish, monitor, and manage an effective contract administration process that assures compliance with all requirements of this contract. In particular, Contractor will not provide goods or services in excess of the executed contract items, item quantity, item amount, or contract amount without prior written authorization by contract amendment that County has properly executed and issued. Any items Contractor provides in excess of those stated in the contract are at Contractor's own risk. Contractor will decline verbal requests to deliver items in excess of the contract and will report all such requests in writing to County's Procurement Department within one (1) workday of the request. The report must include the name of the requesting individual and the nature of the request.

## **7. ACCEPTANCE OF GOODS & SERVICES**

The County Department designated on the issued order (DO or DOM) will accept goods and services only in accordance with this contract. Such acceptance is a prerequisite to the commencement of payment terms.

## **8. COMPENSATION & PAYMENT**

The MA will establish the contractual Not-to-Exceed Amount ("NTE Amount"). The NTE Amount represents the funding appropriated by County for this contract and cannot be altered without amendment. Contractor will not accept orders, nor provide services or products that cumulatively exceed the contract amount.

### **8.1. Unit Prices (NET 30)**

Contractor's initial unit prices are established in **Exhibit A: Contractor's Pricing Offer** (1 sheet). Contractor's unit prices must include all incidentals and associated costs required to comply with and satisfy all requirements of this contract, which includes the Offer Agreement and the Standard Terms and Conditions. County will make no payments for items not in the contract and Contractor will not invoice them.

Quantities in this solicitation are estimates only. County may increase or decrease quantities and amounts. County makes no guarantee regarding actual orders for items or quantities during the term of the contract. County is not responsible for Contractor inventory or order commitment.

Unless the parties otherwise agree in writing, all pricing will be F.O.B. Destination & Freight Prepaid Not Billed ("F.O.B. Destination"). Contractor will deliver and unload products or services at the destination(s) that the delivery article of this contract or accepted Order indicates. The offered Unit Price must include all freight costs.

Although an order may not fully include State and City sales tax, County will pay such taxes as are DIRECTLY applicable to County and Contractor invoices such taxes as a separate line item. Contractor must not include such taxes in the item unit price.

### **8.2. Price Warranty and Trade-In Allowance**

Contractor will give County the benefit of any price reduction before actual time of shipment. Parties may negotiate a fair and equitable trade-in allowance value for County surplus property to be applied through either a discounted purchase price or account credit. The trade-in value must be stated on a written price quote prior to County making a purchase, or on a credit memo invoice for a prior purchase. Trade-In property will be itemized on the quote or invoice by description, model/part number, quantity and guaranteed trade-in value. County will coordinate and document the delivery of surplus trade-in property to Contractor. Award of contract constitutes disposition authority to trade-in surplus property pursuant to Board of Supervisors' Policy D.29.11, Surplus Personal Property.

**8.3. Price Escalation**

All unit prices shall consider/provide for current economic and market conditions, and include compensation for Contractor to implement and actively conduct cost and price control. No additional compensation shall be paid to Contractor to reimburse efforts to implement and conduct cost and price controls. **Prices shall remain fixed for the initial contract term, after which Contractor may submit no more than one (1) written Price Escalation Request (“PER”) per term.** The PER must be submitted not later than 90 days prior to the contract renewal date, and must clearly demonstrate justification for the increase in price, such as continued and significant changes in economic and/or market conditions justifying any requested price escalation. The PER must reference/cite any source materials used to form the basis of the proposed justification, but must not include historical information prior to the initial contract term. County will research Bureau of Labor Statistics (BLS) Producer Price Index (PPI) and/or other related indicators or sources, and conduct an analysis to determine 1) if the submitted justification and evidence are sufficient, 2) the requested price escalation is fair and reasonable, and 3) if approving the PER is in the County’s best interest. County reserves the right to negotiate, accept or reject the PER, or terminate and re-solicit the contract.

**8.4. Living Wage**

All pricing will conform to Pima County’s Living Wage ordinance if applicable, including required annual adjustments of the wage.

**8.5. Additional Items and/or Services**

The parties may negotiate and establish unit pricing in writing under the contract for items included in the scope of the contract that does not have previously listed unit pricing.

**8.6. Standard Payment Term**

Net (30), effective from the date of valid invoice document and does not commence until the later of 1) the receiving County Department receives goods or services into County’s payment system or 2) County Financial Operations receives and verifies Contractor’s invoice.

**8.7. Optional Early Payment Discount Term**

Pima County Administrative Procedure No. 22-35 Section 2.2.4 describes County’s practice regarding discounts for early payment. Contractor offers the following discounts to those prices to be used for all orders issued pursuant to this contract. County will utilize the existing payment code that best matches that offered and does not exceed the offered discount percentage. Payment days cannot be less than ten (10) calendar days. Contractor will submit valid invoice document consistent with the associated DO or DOM to County’s Finance Department at least seven (7) calendar days prior to the date on which the discounted payment is due. If desired, for any order issued pursuant with this contract, Contractor may offer early payment discounts that exceed this Early Payment Discount.

Optional Early Payment Discount:   N/A   % if payment tendered within        Days as indicated above.

**8.8. Invoicing**

Contractor will submit Request(s) for Payment or Invoices to the location and entity identified by County’s DO or DOM document.

All Invoice documents will reference County’s DO or DOM number under which the services or products were ordered. Contractor must utilize the item description, precise unit price, **AND** unit of measure included in County’s order document for **ALL** Invoice line items. County may return invoices that include line items or unit prices that do not match those documented by County’s order to Contractor unprocessed for correction.

Contractor will provide detailed documentation in support of payment requests, which should be consistent with and not exceed County’s DO or DOM document. Contractor will bill County within one (1) month after the date on which Contractor’s right to payment accrues (“Payment Accrual Date”), which, unless this contract specifically provides otherwise, is the date Contractor delivers goods, performs services or incurs costs. Invoices must assign each billed amount to an appropriate line item of County’s order and document each Payment Accrual Date. County may refuse to pay any amount that Contractor bills in which does not conform to County’s DO or DOM document. County will refuse to pay any amount that Contractor bills more than six (6) months after the Payment Accrual Date, pursuant to A.R.S. § 11-622(C).

**9. VENDOR RECORD MAINTENANCE**

Contractor must establish and maintain a complete Pima County Vendor record, which includes the provision of a properly completed and executed "Request for Taxpayer Identification Number and Certification" document (Form W-9). The record must be registered with a valid and monitored email address for Contractor. In the event of any change that renders the information on that record inaccurate Contractor must update the record within ten (10) calendar days of the change and prior to the submission of any invoice or request for payment. Contractor must register through <http://www.pima.gov/procure/venreg.htm>.

**10. DELIVERY**

"On-Time" delivery is an essential part of the consideration that Contractor is to provide to County under the contract. Contractor will make delivery in accordance with the Standard Terms and Conditions and to the location(s) below.

Pima County Traffic Signals & Lighting Shop  
1313 S Mission Road, Building 28  
Tucson, AZ 85713

Monday through Thursday (excluding holidays), 7:00 AM to 4:00 PM local Tucson time

Contractor guarantees delivery of product or service in less than ten (10) calendar days after issue date of order. If necessary to satisfy the guaranteed delivery time, Contractor will utilize premium freight method at no additional cost to County.

**11. TAXES, FEES, EXPENSES**

Pursuant to IRS Publication 510, County is exempt from federal excise taxes for goods. County is subject to State and City sales tax. County will pay no separate charges for delivery, drayage, express, parcel post, packing, insurance, license fees, permits, costs of bonds, surcharges, or bid preparation unless the contract expressly includes such charges and the solicitation documents itemize them.

**12. OTHER DOCUMENTS**

Contractor and County are entering into this contract have relied upon information provided or referenced by Pima County Solicitation No. RFO-478405-NSSS including the Offer Agreement, Standard Terms and Conditions, Solicitation Amendments, Exhibit A: Contractor's Pricing Offer, Exhibit B: Pima County Standard Licensed Software/SaaS Terms and Conditions, documents submitted by Contractor or References to satisfy Minimum Qualifications and any other information and documents that Contractor has submitted in its response to County's Solicitation. The Contract incorporates these documents as though set forth in full herein, to the extent not inconsistent with the provisions of this contract.

**13. INSURANCE**

The Insurance Requirements herein are minimum requirements for this contract and in no way limit the indemnity covenants contained in this contract. Contractor's insurance shall be placed with companies licensed in the State of Arizona and the insureds shall have an "A.M. Best" rating of not less than A- VII, unless otherwise approved by County. County in no way warrants that the minimum insurer rating is sufficient to protect Contractor from potential insurer insolvency.

**13.1. Minimum Scope and Limits of Insurance**

Contractor will procure and maintain at its own expense, until all contractual obligations have been discharged, the insurance coverage with limits of liability not less than stated below. County in no way warrants that the minimum insurance limits contained herein are sufficient to protect Contractor from liabilities that arise out of the performance of the work under this contract. If necessary, Contractor may obtain commercial umbrella or excess insurance to satisfy County's Insurance Requirements.

**13.1.1. Commercial General Liability (CGL)**

Occurrence Form with limits of \$2,000,000 Each Occurrence and \$2,000,000 General Aggregate. Policy shall include cover for liability arising from premises, operations, independent contractors, personal injury, bodily injury, property damage, broad form contractual liability coverage, personal and advertising injury and products – completed operations.

**13.1.2. Business Automobile Liability**

Bodily Injury and Property Damage for any owned, leased, hired, and/or non-owned automobiles assigned to or used in the performance of this contract with a Combined Single Limit (CSL) of \$1,000,000 Each Accident.

**13.1.3. Workers' Compensation (WC) and Employers' Liability**

Statutory requirements and benefits for Workers' Compensation. In Arizona, WC coverage is compulsory for employers of one or more employees. Employers' Liability coverage with limits of \$1,000,000 each accident and \$1,000,000 each person - disease.

**13.1.4. Technology Errors and Omissions (E&O) Insurance**

The Technology E&O coverage shall have minimum limits not less than 2,000,000 Each Claim and \$2,000,000 Annual Aggregate. Such insurance shall cover any, and all errors, omissions, or negligent acts in the delivery of products, services, and/or licensed programs under this contract. Coverage shall include or shall not exclude settlement and/or defense of claims involving intellectual property, including but not limited to copyright infringement. In the event that the Technology E&O insurance required by this contract is written on a claims-made basis, Contractor shall warrant that continuous coverage will be maintained as outlined under "Additional Insurance Requirements – Claims-Made Coverage" section.

**13.2. Additional Insurance Requirements**

The policies shall include, or be endorsed to include, as required by this contract, the following provisions:

**13.2.1. Claims-Made Insurance Coverage**

If any part of the Required Insurance is written on a claims-made basis, any policy retroactive date must precede the effective date of this contract, and Contractor must maintain such coverage for a period of not less than three (3) years following contract expiration, termination or cancellation.

**13.2.2. Additional Insured Endorsement**

The General Liability and Business Automobile Liability policies must each be endorsed to include Pima County and all its related special districts, elected officials, officers, agents, employees and volunteers (collectively "County and its Agents") as additional insureds with respect to vicarious liability arising out of the activities performed by or on behalf of the Contractor. The full policy limits and scope of protection must apply to County and its Agents as an additional insured, even if they exceed the Insurance Requirements.

**13.2.3. Subrogation Endorsement**

The General Liability, Business Automobile Liability, and Workers' Compensation Policies shall each contain a waiver of subrogation endorsement in favor of County, and its departments, districts, officials, agents, and employees for losses arising from work performed by or on behalf of the Contractor.

**13.2.4. Primary Insurance Endorsement**

Contractor's policies shall stipulate that the insurance afforded Contractor shall be primary and that any insurance carried by County, its agents, officials, or employees shall be excess and not contributory insurance. The Required Insurance policies may not obligate County to pay any portion of Contractor's deductible or Self Insurance Retention (SIR).

**13.2.5.** Insurance provided by Contractor shall not limit Contractor's liability assumed under the indemnification provisions of this Contract.

**13.2.6. Subcontractors**

Contractor must either (a) include all subcontractors as additional insureds under its Required Insurance policies, or (b) require each subcontractor to separately meet all Insurance Requirements and verify that each subcontractor has done so, Contractor must furnish, if requested by County, appropriate insurance certificates for each subcontractor. Contractor must obtain County's approval of any subcontractor request to modify the Insurance Requirements as to that subcontractor.

**13.3. Notice of Cancellation**

Each Required Insurance policy must provide, and certificates specify, that County will receive not less than thirty (30) days advance written notice of any policy cancellation, except 10-days prior notice is sufficient when the

cancellation is for non-payment of a premium. Notice must be mailed, emailed, hand-delivered or sent via facsimile transmission to County’s Contracting Representative, and must include the project or contract number and project description.

**13.4. Verification of Coverage**

Contractor shall furnish County with certificates of insurance (valid ACORD form or equivalent approved by County) as required by this contract. An authorized representative of the insurer shall sign the certificates. Each certificate must include:

- County’s tracking number for this contract, which is shown on the first page of the contract, and a project description, in the body of the Certificate;
- A notation of policy deductibles or SIRs relating to the specific policy; and
- Certificates must specify that the appropriate policies are endorsed to include additional insured and subrogation waiver endorsements for County and its Agents. Note: Contractors for larger projects must provide actual copies of the additional insured and subrogation endorsements.

**13.4.1.** All certificates and endorsements, as required by this contract, are to be received and approved by County before, and be in effect not less than 15 days prior to, commencement of work. A renewal certificate must be provided to County not less than 15 days prior to the policy's expiration date to include actual copies of the additional insured and waiver of subrogation endorsements. Failure to maintain the insurance coverages or policies as required by this contract, or to provide evidence of renewal, is a material breach of contract.

**13.4.2.** All certificates required by this contract shall be sent directly to the appropriate County Department. The Certificate of Insurance shall include County’s project or contract number and project description on the certificate. County may require complete copies of all insurance policies required by this contract at any time.

**13.5. Approval and Modifications**

County’s Risk Manager may approve a modification of the Insurance Requirements without the necessity of a formal contract amendment, but the approval must be in writing. County’s failure to obtain a required insurance certificate or endorsement, County’s failure to object to a non-complying insurance certificate or endorsement, or County’s receipt of any other information from the Contractor, its insurance broker(s) and/or insurer(s), do not constitute a waiver of any of the Insurance Requirements.

**14. PERFORMANCE BOND**

Not applicable to this contract.

**15. ACKNOWLEDGEMENT OF SOLICITATION AMENDMENTS**

Contractor must acknowledge in the table below to have read all published solicitation amendments and must ensure they are submitting all amended pages of the solicitation (if any) with their response:

Amendment #	Date	Amendment #	Date	Amendment #	Date

**16. SMALL BUSINESS ENTERPRISE (SBE) CERTIFICATION**

Not applicable to this contract.

**17. BID/OFFER CERTIFICATION**

**CONTRACTOR LEGAL NAME:** MIOVISION TECHNOLOGIES INCORPORATED

**BUSINESS ALSO KNOWN AS:** -

**MAILING ADDRESS:** 137 Glasgow Street, Suite 110

**CITY/STATE/ZIP:** Kitchener, Ontario, N2G 4X8

**REMIT TO ADDRESS:** 137 Glasgow Street, Suite 110

**CITY/STATE/ZIP:** Kitchener, Ontario, N2G 4X8

**CONTACT PERSON NAME/TITLE:** Christopher Cassani

**PHONE:** (519) 513-2407 **FAX:** -

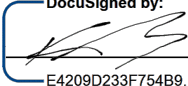
**CONTACT PERSON EMAIL ADDRESS:** ccassani@miovision.com

**EMAIL ADDRESS FOR ORDERS & CONTRACTS:** ccassani@miovision.com

**CORPORATE HEADQUARTERS ADDRESS:** 137 Glasgow Street, Suite 110, Kitchener, Ontario, N2G 4X8

**WEBSITE:** https://miovision.com/

By signing and submitting the Offer Agreement, the undersigned certifies that they are legally authorized to represent and bind Contractor to legal agreements, that all information submitted is accurate and complete, that Contractor has reviewed the County's Procurement website for solicitation amendments and has incorporated all such amendments to its offer, that Contractor is qualified and willing to provide the items requested, and that Contractor will comply with all requirements of the contract. The Unit Pricing includes all costs incidental to the provision of the items in compliance with the contract; no additional payment will be made. County may deem conditional offers that modify the solicitation requirements not 'responsive' and County may not evaluate them. Contractor's submission of a signed Offer Agreement will constitute a firm offer and upon the issuance of a MA or PO document issued by County's Procurement Director or authorized designee will form a binding contract that will require Contractor to provide the goods or services and materials described in this contract. The undersigned hereby offers to furnish the goods or services in compliance with all terms, conditions, and specifications in this Offer Agreement.

**SIGNATURE:**  E4209D233F754B9...

**DATE:** March 16, 2023

Kurtis McBride, CEO

**PRINTED NAME & TITLE OF AUTHORIZED CONTRACTOR REPRESENTATIVE EXECUTING OFFER**

**PHONE AND EMAIL:** (519) 513-2407 / kmcbride@miovision.com

**Contract Approved "As to Form" by County Attorney.**



Tyler Campman, Deputy County Attorney

## PIMA COUNTY STANDARD TERMS AND CONDITIONS

### 1. WARRANTY

Contractor warrants goods or services to be satisfactory and free from defects. Contractor also warrants that all products and services provided under this contract are non-infringing.

### 2. PACKING

Contractor will make no extra charges for packaging or packing material. Contractor is responsible for safe packaging conforming to carrier's requirements.

### 3. DELIVERY

On-time delivery of goods and services is an essential part of the consideration that County will receive. Contractor must provide a guaranteed delivery date, or interval period from order release date to delivery if the Price proposal document requires it. Upon receipt of notification of delivery delay, County may cancel the order or extend delivery times at no cost to County. Any extension of delivery times will not be valid unless an authorized representative of County extends it to Contractor in writing.

To mitigate or prevent damages from delayed delivery, County may require Contractor to deliver additional quantity utilizing express modes of transport, or overtime, all costs to be Contractor's responsibility. County may cancel any delinquent order, procure from an alternate source, or refuse receipt of or return delayed deliveries at no cost to County. County may cancel any order or refuse delivery upon default by Contractor concerning time, cost, or manner of delivery.

Contractor is not responsible for unforeseen delivery delays caused by fires, strikes, acts of God, or other causes beyond Contractor's control, provided that Contractor provides County immediate notice of delay.

### 4. SPECIFICATION CHANGES

County may make changes in the specifications, services, or terms and conditions of an order. If such changes cause an increase or decrease in the amount due under an order or in time required for performance, County will make an acceptable adjustment and will modify the order in writing. No verbal agreement for adjustment is acceptable.

Nothing in this clause reduces Contractor's responsibility to proceed without delay in the delivery or performance of an order.

### 5. INSPECTION

County may inspect or test all goods and services at place of manufacture, destination, or both. Contractor will hold goods failing to meet specifications of the order or contract at Contractor's risk and County may return such goods to Contractor and Contractor will be responsible for costs for transportation, unpacking, inspection, repacking, reshipping, restocking or other like expenses. In lieu of return of nonconforming supplies, County may waive any nonconformity, receive the delivery, and treat the defect(s) as a warranty item, but any waiver of any condition will not apply to subsequent shipments or deliveries.

### 6. ACCEPTANCE OF MATERIALS AND SERVICES

County will not execute an acceptance or authorize payment for any service, equipment or component prior to delivery and verification that the delivery meets all specification requirements.

### 7. RIGHTS AND REMEDIES OF COUNTY FOR DEFAULT

If Contractor furnishes items that do not conform to the contract requirements, or to the sample that Contractor submitted, County may reject the items. Contractor must then reclaim and remove the items, without expense to County. Contractor must also immediately replace all rejected items with conforming items. Should Contractor fail, neglect, or refuse immediately to do so, County may purchase in the open market a corresponding quantity of any such items and deduct from any monies due or that may become due to Contractor the difference between the price named in the MA or Purchase Order ("PO") and the actual cost to County.

If Contractor fails to make prompt delivery of any item, County may purchase the item in the open market and invoke the reimbursement condition above apply, except when delivery is delayed by fire, strike, freight embargo, or acts of god or of the government. If County cancels a MA, PO or associated order, either in whole or in part, by reason of the default or breach by Contractor, Contractor will pay for any loss or damage sustained by County in procuring any items which Contractor was obligated to supply. These remedies are not exclusive and are in addition to any other rights and remedies provided by law or under the contract.

**8. FRAUD AND COLLUSION**

Contractor certifies that no officer or employee of County or of any subdivision thereof has aided or assisted Contractor in securing or attempting to secure a contract to furnish labor, materials or supplies at a higher price than that proposed by any other Contractor. Contractor also certifies that it is not aware of any County employee 1) favoring one Contractor over another by giving or withholding information or by willfully misleading a Proposer in regard to the character of the material or supplies called for or the conditions under which the proposed work is to be done; 2) knowingly accepting materials or supplies of a quality inferior to those called for by any contract; or 4) directly or indirectly having a financial interest in the proposal or resulting contract. Additionally, during the conduct of business with County, Contractor will not knowingly certify, or induce others to certify, to a greater amount of labor performed than has been actually performed, or to the receipt of a greater amount or different kind of material or supplies that has been actually received. If County finds at any time that Contractor has in presenting any proposal(s) colluded with any other party or parties for the purpose of preventing any other proposal being made, then County will terminate any contract so awarded and that person or entity will be liable for all damages that County sustains.

**9. INTENTIONALLY OMITTED****10. INTELLECTUAL PROPERTY INDEMNITY**

Contractor will indemnify, defend and hold County, its officers, agents, and employees harmless from liability of any kind, including costs and expenses, for infringement or use of any copyrighted composition, secret process, patented or unpatented invention, article or appliance furnished or used in connection with the contract and any MA, PO, and associated orders. County may require Contractor to furnish a bond or other indemnification to County against any and all loss, damage, costs, expenses, claims and liability for patent or copyright infringement.

**11. INDEMNIFICATION**

Contractor will indemnify, defend, and hold harmless County, its officers, employees, and agents from and against any and all suits, actions, legal administrative proceedings, claims or demands and costs, including attorney's fees arising out of any act, omission, fault or negligence by Contractor, its agents, employees or anyone under its direction or control or on its behalf in connection with performance of the contract and any MA, PO or associated orders. Contractor will indemnify, defend and hold County harmless from any claim of infringement arising from services provided under this contract or from the provision, license, transfer or use for their intended purpose of any products provided under this Contract.

**12. UNFAIR COMPETITION AND OTHER LAWS**

Responses must comply with Arizona trade and commerce laws (Title 44 A.R.S.) and all other applicable County, State, and Federal laws and regulations.

**13. COMPLIANCE WITH LAWS**

Contractor will comply with all federal, state, and local laws, rules, regulations, standards and Executive Orders, without limitation. In the event any services that Contractor provides under this contract require a license issued by the Arizona Registrar of Contractors ("ROC"), Contractor certifies that a Contractor licensed by ROC to perform those services in Arizona will provide such services. The laws and regulations of the State of Arizona govern the interpretation and construction of this contract, and the rights, performance and disputes of and between the parties. Any action relating to this Contract must be filed and maintained in a court of the State of Arizona in Pima County.

**14. ASSIGNMENT**

Contractor may not assign its rights to the contract, in whole or in part, without prior written approval of County. County may withhold approval at its sole discretion, provided that County will not unreasonably withhold such approval.

**15. CANCELLATION FOR CONFLICT OF INTEREST**

This contract is subject to cancellation pursuant to A.R.S. §§38-506 and 38-511, the pertinent provisions of which are incorporated into this Contract by reference.

**16. NON-DISCRIMINATION**

Contractor agrees to comply with all provisions and requirements of Arizona Executive Order 2009-09 which is hereby incorporated into this contract as if set forth in full herein including flow down of all provisions and requirements to any subcontractors. During the performance of this contract, Contractor must not discriminate against any employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin.



**17. NON-APPROPRIATION OF FUNDS**

County may cancel this contract if for any reason County's Board of Supervisors does not appropriate funds for the stated purpose of maintaining the contract. In the event of such cancellation, County has no further obligation, other than payment for services or goods that County has already received.

**18. PUBLIC RECORDS**

Disclosure. Pursuant to A.R.S. § 39-121 et seq., and A.R.S. § 34-603(H) in the case of construction or Architectural and Engineering services procured under A.R.S. Title 34, Chapter 6, all documents submitted in response to the solicitation resulting in award of this Contract, including, but not limited to, pricing schedules, product specifications, work plans, and any supporting documents, are public records. As such, those documents are subject to release and/or review by the general public upon request, including competitors.

Records Marked Confidential; Notice and Protective Order. If Contractor reasonably believes that some of those records contain proprietary, trade-secret or otherwise-confidential information, Contractor must prominently mark those records "CONFIDENTIAL." In the event a public-records request is submitted to County for records marked CONFIDENTIAL, County will notify Contractor of the request as soon as reasonably possible. County will release the records 10 business days after the date of that notice, unless Contractor has, within that period, secured an appropriate order from a court of competent jurisdiction, enjoining the release of the records. County will not, under any circumstances, be responsible for securing such an order, nor will County be in any way financially responsible for any costs associated with securing such an order.

Contractor agrees to waive confidentiality of any price terms.

**19. CUSTOM TOOLING, DOCUMENTATION AND TRANSITIONAL SUPPORT**

Costs to develop all tooling and documentation, such as and not limited to dies, molds, jigs, fixtures, artwork, film, patterns, digital files, work instructions, drawings, etc. necessary to provide the contracted services or products and unique to the services or products supplied to County are included in the agreed upon Unit Price unless the contract specifically states otherwise. Such tools and documentation are the property of County and will be marked, as is practical, as the "Property of Pima County" and County so requests, Contractor will deliver a copy of the tooling and documentation to County within twenty (20) days of acceptance by County of the first article sample, or not later than ten (10) days of termination of the contract associated with their development, without additional cost to County. Contractor also agrees to act in good faith to facilitate the transition of work to a subsequent Contractor if and as reasonably requested by County at no additional cost. Should exceptional circumstances be present that may justify an additional charge, Contractor may submit said justification and proposed cost and negotiate an agreement acceptable to both Contractor and County, but Contractor may not withhold any requested tooling, document or support as described above that would delay the orderly, efficient and prompt transition of work. Should conduct by Contractor result in additional costs to County, Contractor will reimburse County for said actual and incremental costs provided that County has given Contractor reasonable time to respond to County's requests for support.

**20. AMERICANS WITH DISABILITIES ACT**

Contractor will comply with all applicable provisions of the Americans with Disabilities Act (public law 101-336, 42 USC 12101-12213) and all applicable federal regulations under the act, including 28 CFR parts 35 and 36.

**21. NON-EXCLUSIVE AGREEMENT**

Contractor understands that this Contract is nonexclusive and is for the sole convenience of County. County may obtain like services from other sources for any reason.

**22. TERMINATION**

County may terminate any contract and any MA, PO, Delivery Order, DOM or issued NORFA, in whole or in part, at any time for any reason or no reason, without penalty or recourse, when in the best interests of County. Upon receipt of written notice, Contractor will immediately cease all work as directed by the notice, notify all subcontractors of the effective date of termination, and take appropriate actions to minimize further costs to County. In the event of termination under this paragraph, all documents, data, and reports prepared by Contractor under the contract become the property of County and Contractor must promptly deliver them to County. Contractor is entitled to receive just and equitable compensation for work in progress, work completed, and materials accepted by County before the effective date of the termination.

**23. ORDER OF PRECEDENCE – CONFLICTING DOCUMENTS**

In the event of inconsistencies between contract documents, the following is the order of precedence, superior to subordinate, that will apply to resolve the inconsistency: MA or PO; DO or DOM; Offer Agreement; these standard terms and conditions; any Contractor terms (Terms of Sale; End User Licenses Agreement; Service Agreement; etc.) attached to an MA, PO, DO or DOM, if applicable; any other solicitation documents.

**24. INDEPENDENT CONTRACTOR**

Contractor is an independent Contractor. Contractor and Contractor officer's agents or employees are not considered employees of County and are not entitled to receive any employment-related fringe benefits under County's Merit System. Contractor is responsible for paying all federal, state and local taxes associated with the compensation received pursuant to this Contract and will indemnify and hold County harmless from any and all liability which County may incur because of Contractor's failure to pay such taxes.

**25. BOOK AND RECORDS**

Contractor will keep and maintain proper and complete books, records and accounts, which will be open at all reasonable times for inspection and audit by duly authorized representatives of County. In addition, Contractor will retain all records relating to this contract at least five (5) years after its termination or cancellation or, if later, until any related pending proceeding or litigation has been closed.

**26. COUNTERPARTS**

The parties may execute the MA or PO that County awards pursuant to this solicitation in any number of counterparts, and each counterpart is considered an original, and together such counterparts constitute one and the same instrument. For the purposes of the MA and PO, the signed proposal of Contractor and the signed acceptance of County are each an original and together constitute a binding MA, if all other requirements for execution are present.

**27. AUTHORITY TO CONTRACT**

Contractor warrants its right and power to enter into the MA or PO. If any court or administrative agency determines that County does not have authority to enter into the MA or PO, County is not liable to Contractor or any third party by reason of such determination or by reason of the MA or PO.

**28. FULL AND COMPLETE PERFORMANCE**

The failure of either party to insist on one or more instances upon the full and complete performance with any of the terms or conditions of the contract and any MA, PO, DO or DOM to be performed on the part of the other, or to take any action permitted as a result thereof, is not a waiver or relinquishment of the right to insist upon full and complete performance of the same, or any other covenant or condition, either in the past or in the future. The acceptance by either party of sums less than may be due and owing it at any time is not an accord and satisfaction.

**29. SUBCONTRACTORS**

Contractor is fully responsible for all acts and omissions of any subcontractor and of persons directly or indirectly employed by any subcontractor, and of persons for whose acts Contractor may be liable to the same extent that Contractor is responsible for the acts and omissions of persons that it directly employs. Nothing in this contract creates any obligation on the part of County to pay or see to the payment of any money due any subcontractor, except as may be required by law.

**30. SEVERABILITY**

Each provision of this contract stands alone, and any provision of this contract that a court finds to be prohibited by law is ineffective to the extent of such prohibition without invalidating the remainder of this contract.

**31. LEGAL ARIZONA WORKERS ACT COMPLIANCE**

For the procurement of services in the State of Arizona, Contractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Contractor's employment of its employees, and with the requirements of A.R.S. § 23-214 (A) (together the "State and Federal Immigration Laws"). Contractor will further ensure that each subcontractor who performs any work for Contractor under this contract likewise complies with the State and Federal Immigration Laws.

County has the right at any time to inspect the books and records of Contractor and any subcontractor in order to verify such party's compliance with the State and Federal Immigration Laws.

Any breach of Contractor's or any subcontractor's warranty of compliance with the State and Federal Immigration Laws, or of any other provision of this section, is a material breach of this Contract subjecting Contractor to penalties up to and including suspension or termination of this Contract. If the breach is by a subcontractor, and the subcontract is suspended or terminated as a result, Contractor will take such steps as may be necessary to either self-perform the services that would have been provided under the subcontract or retain a replacement subcontractor as soon as possible so as not to delay project completion.

Contractor will advise each subcontractor of County's rights, and the subcontractor's obligations, under this Section by including a provision in each subcontract substantially in the following form:

"Subcontractor hereby warrants that it will at all times during the term of this contract comply with all federal immigration laws applicable to Subcontractor's employees, and with the requirements of A.R.S. § 23-214 (A). Subcontractor further agrees that County may inspect the Subcontractor's books and records to ensure that Subcontractor is in compliance with these requirements. Any breach of this paragraph by Subcontractor is a material breach of this contract subjecting Subcontractor to penalties up to and including suspension or termination of this contract."

Any additional costs attributable directly or indirectly to remedial action under this Section is the responsibility of Contractor. In the event that remedial action under this Section results in delay to one or more tasks on the critical path of Contractor's approved construction or critical milestones schedule, such period of delay will be excusable delay for which Contractor is entitled to an extension of time, but not costs.

### **32. CONTROL OF DATA PROVIDED BY COUNTY**

For those projects and contracts where County has provided data to enable the Contractor to provide contracted services or products, unless County otherwise specifies and agrees in writing, Contractor will treat, control and limit access to said information as confidential and will under no circumstances release any data provided by County during the term of this contract and thereafter, including but not limited to personal identifying information as defined by A.R.S. § 44-1373, and Contractor is further prohibited from selling such data directly or through a third party. Upon termination or completion of the contract, Contractor will, at the written request of County, either return all such data to County or will destroy such data and confirm destruction in writing in a timely manner not to exceed sixty (60) calendar days.

### **33. ISRAEL BOYCOTT CERTIFICATION**

Pursuant to A.R.S. § 35-393.01, if Contractor engages in for-profit activity and has ten (10) or more employees, and if this Contract has a value of \$100,000.00 or more, Contractor certifies it is not currently engaged in, and agrees for the duration of this Contract to not engage in, a boycott of goods or services from Israel. This certification does not apply to a boycott prohibited by 50 U.S.C. § 4842 or a regulation issued pursuant to 50 U.S.C. § 4842.

### **34. FORCED LABOR OF ETHNIC UYGHURS**

Pursuant to A.R.S. § 35-394 if Contractor engages in for-profit activity and has 10 or more employees, Contractor certifies it is not currently using, and agrees for the duration of this Contract to not use (1) the forced labor of ethnic Uyghurs in the People's Republic of China; (2) any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China; and (3) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People's Republic of China. If Contractor becomes aware during the term of the Contract that the Company is not in compliance with A.R.S. § 35-394, Contractor must notify the County within five business days and provide a written certification to County regarding compliance within one hundred eighty days.

### **35. ENTIRE AGREEMENT**

This document constitutes the entire agreement between the parties pertaining to the subject matter it addresses, and this Contract supersedes all prior or contemporaneous agreements and understandings, oral or written.

## **END OF PIMA COUNTY STANDARD TERMS AND CONDITIONS**

**EXHIBIT A: CONTRACTOR'S PRICING OFFER**

*see attached spreadsheet titled Exhibit A: Contractor's Pricing Offer (1 sheet)*

## EXHIBIT A: CONTRACTOR'S PRICING OFFER

Line No.	Item/Service Name & Description	MAXIMO EID	Estimated Annual Usage	Unit of Measure (UOM)	Unit Price	Estimated Extended Total Usage x Price
1	Miovision SmartView 360	34590	40	EA	\$ 2,000.00	\$ 80,000.00
2	Miovision Core	23366	20	EA	\$ 3,095.00	\$ 61,900.00
3	Miovision Core DCM	34780	40	EA	\$ 11,650.00	\$ 466,000.00
4	Miovision SmartView Approach	34781	40	EA	\$ 1,795.00	\$ 71,800.00
5	TrendNet TI-PG541i 4 port PoE Switch, power supply & ca	34782	40	EA	\$ 515.00	\$ 20,600.00
6	GTT System Management per year	23366	1	EA	\$ 24,240.00	\$ 24,240.00
7	GTT Vehicle Service per vehicle per year	23366	1	EA	\$ 528.00	\$ 528.00
8	GTT Intersection Service, per intersection/per yera	23366	1	EA	\$ 552.00	\$ 552.00
9	Miovision Connectivity	23366	1	EA		\$ -
10	Miovision Scout Explore Video Collection Unit	23366	1	EA	\$ 7,500.00	\$ 7,500.00
11	Additional Scout Explore Battery	23366	1	EA	\$ 750.00	\$ 750.00
12	UPS- UPS Standard	23366	1	EA	\$ 192.00	\$ 192.00
13	Intersection Count (1 hour)	23366	1	EA	\$ 22.80	\$ 22.80
14	Intersection Count with Premium Class (1 hour)	23366	1	EA	\$ 22.60	\$ 22.60
15	Crosswalk Data (1 hour)	23366	1	EA	\$ 2.00	\$ 2.00
16	Intersection Count 24+ hour study (1 hour)	23366	1	EA	\$ 16.67	\$ 16.67
17	Intersection Count 24+ hour study w Premium Class (1 ho	23366	1	EA	\$ 18.00	\$ 18.00
18	Travel Time Report Generation (1 hour)	23366	1	EA	\$ 15.00	\$ 15.00
19	Travel Time Report Generation (24 hours)	23366	1	EA	\$ 12.50	\$ 12.50
20	Road Volume Count (1 lane hour)	23366	1	EA	\$ 2.00	\$ 2.00
21	Road Volume Count w Premium Class (1 lane hour)	23366	1	EA	\$ 3.00	\$ 3.00
22	Small Roundabout (1 hour)	23366	1	EA	\$ 36.00	\$ 36.00
23	Small Roundabout w Premium Class (1 hour)	23366	1	EA	\$ 39.00	\$ 39.00
24	Large Roundabout (1 hour)	23366	1	EA	\$ 76.00	\$ 76.00
25	Large Roundabout w Premium Class (1 hour)	23366	1	EA	\$ 79.00	\$ 79.00
26	Pathway Volume (1 lane hour)	23366	1	EA	\$ 6.00	\$ 6.00
27	Junction Count (1 hour)	23366	1	EA	\$ 18.00	\$ 18.00
28	Vehicle Gap Count (1 hour)	23366	1	EA	\$ 29.00	\$ 29.00
29	Intersection Right Turn on Red	23366	1	EA	\$ 2.00	\$ 2.00
30	Rush Turnaround- 48 hours	23366	1	EA	\$ 3.00	\$ 3.00
31	Rush Turnaround- 24 hours	23366	1	EA	\$ 7.00	\$ 7.00
32	Camera Mount - Bell Only	23366	5	EA	\$ 150.00	\$ 750.00
33	Camera Mount (no extension)- Horizontal Clamp hub	23366	20	EA	\$ 280.00	\$ 5,600.00
34	Camera Mounting Hub - Banding	23366	20	EA	\$ 105.00	\$ 2,100.00
35	Camera Mounting Hub - Clamp	23366	20	EA	\$ 125.00	\$ 2,500.00
36	Cellular Antenna (Rabbit Ear Style)	23366	1	EA	\$ 30.00	\$ 30.00
37	Miovision SmartLink Hard Drive Upgrade 512GB	23366	1	EA	\$ 700.00	\$ 700.00
38	PoE Power Injector (Inline)	23366	5	EA	\$ 800.00	\$ 4,000.00
39	Power Adapter for SmartLink & Interface	23366	15	EA	\$ 60.00	\$ 900.00
40	Power Adapter for SmartSense	23366	15	EA	\$ 115.00	\$ 1,725.00
41	SDLC Y-Cable	23366	1	EA	\$ 79.00	\$ 79.00
42	TrafficLink Antenna	23366	15	EA	\$ 250.00	\$ 3,750.00
43	TrafficLink Interface (SDLC)	23366	1	EA	\$ 1,000.00	\$ 1,000.00

44	TrafficLink Network Integration (NA)	23366	1	EA	\$ 5,000.00	\$ 5,000.00
45	Universal Camera Extension	23366	1	EA	\$ 400.00	\$ 400.00
46	Universal Camera Mount w/Universal Hub	23366	40	EA	\$ 480.00	\$ 19,200.00
47	Universal Hub	23366	20	EA	\$ 200.00	\$ 4,000.00
48	TrafficLink Performance Measures (12 months)	23366	106	EA	\$ 630.00	\$ 66,780.00
49	TrafficLink Continuous Counts (12 months)	23366	106	EA	\$ 630.00	\$ 66,780.00
50	Miovision Detection License	23366	20	EA	\$ 3,000.00	\$ 60,000.00
51	Miovision Detection Plus License	23366	20	EA	\$ 6,500.00	\$ 130,000.00
52	TrafficLink Intersection Monitoring (12 months)	23366	106	EA	\$ 172.00	\$ 18,232.00
53	Managed LTE Connectivity 1GB	23366	1	EA	\$ 171.00	\$ 171.00
54	Managed LTE Connectivity 2GB	23366	20	EA	\$ 331.00	\$ 6,620.00
55	Managed LTE Connectivity 5GB	23366	1	EA	\$ 743.00	\$ 743.00
56	Managed LTE Connectivity 10GB	23366	106	EA	\$ 1,149.00	\$ 121,794.00
57	Installation (Rapidflow) per intersection	23366	1	EA	\$ 1,000.00	\$ 1,000.00
58	Rapid Flow Maintenance & Support (per intersection/year)	23366	1	EA	\$ 1,500.00	\$ 1,500.00
59	Miovision Adaptive Traffic Signal Control System	23366	1	EA	\$ 16,000.00	\$ 16,000.00
60	EVP Subscription Services (Miovision fee)/intersection	23366	1	EA	\$ 126.00	\$ 126.00
61	Traffop Signal Performance Measures (intersection/year)	23366	1	EA	\$ 750.00	\$ 750.00
62	Traffop Signal Performance Measures (setup/intersection)	23366	1	EA	\$ 250.00	\$ 250.00
63	Miovision Core Priority IO Cable	23366	1	EA	\$ 25.00	\$ 25.00
					Estimated Total	\$ 1,276,976.57

## EXHIBIT B: PIMA COUNTY STANDARD LICENSED SOFTWARE/SaaS TERMS AND CONDITIONS

In Sections 1 through 12 below: references to Licensed Software, SaaS, and Software/SaaS Addendums will be inapplicable unless and until the parties execute a Software/SaaS Addendum.

### 1. DEFINITIONS

The following terms will have the meanings set forth in this Section 1 when used in this Agreement.

- 1.1. "Acceptance" is defined in Section 3.1 (**Acceptance**) below.
- 1.2. "Addendum" means an addendum addressing Software/SaaS executed by authorized representatives of each party. References to Addendums include any attachments to those Addendums, except where this Agreement specifically addresses attachments separately.
- 1.3. "Confidential Information" is defined in Section 4 (**Confidentiality**) below.
- 1.4. "Data Breach" means unauthorized disclosure or exposure of Project Data.
- 1.5. "Licensed Software" means software that Contractor provides for County's reproduction and other use. For the avoidance of doubt, Licensed Software does not include SaaS, though Licensed Software that interfaces with SaaS.
- 1.6. "Project Data" means all information processed or stored on computers or other electronic media by County or on County's behalf, or provided to Contractor for such processing or storage, as well as any information derived from such information, provided that Project Data does not include anonymized and aggregated information that does not identify County, County's users, or other third parties and from which the identity of County, County's users, or other third parties cannot reasonably be ascertained or reverse engineered. Project Data includes, without limitation: (a) information on paper or other non-electronic media provided to Contractor for computer processing or storage, or information formerly on electronic media; (b) information provided to Contractor by County or other users or by other third parties; and (c) personally identifiable information from such County's, users, or other third parties, including from County's employees.
- 1.7. "SaaS" means a software-as-a-service that Contractor hosts (directly or indirectly) for County's use. For the avoidance of doubt, SaaS does not include Licensed Software.
- 1.8. "Specifications" refers to such technical and functional specifications for Licensed Software or SaaS.

### 2. ADDENDUMS

- 2.1. Any Addendum entered into by the parties is incorporated into and forms a part of this Agreement. No change in the scope of work, fee arrangements, or other provisions of an Addendum will be effective unless and until each party accepts such change through a written change order. No Addendum will be construed to amend this main body of this Agreement.
- 2.2. Contractor will provide to County such Licensed Software or SaaS, and other products and services as are set forth in each Addendum.

### 3. ACCEPTANCE & REJECTION

#### 3.1. Acceptance

"Acceptance" occurs upon (a) written notice of acceptance of Licensed Software, or SaaS from County or (b) 45 days after Contractor has completed and notified County in writing of (as applicable) full installation, implementation, and customization if County has not first given written notice of rejection. No Licensed Software or SaaS will be deemed accepted until Acceptance. An Addendum may revise the definition of Acceptance with respect to the Licensed Software or SaaS provided pursuant to such Addendum.

#### 3.2. Rejection

Except as set forth in any applicable Addendum:

- 3.2.1. County will not reject Licensed Software or SaaS for any reason other than failure to comply with applicable Specifications; and
- 3.2.2. If County rejects Licensed Software or SaaS, Contractor will promptly repair it so that it meets its Specifications and redeliver it to County.

#### **4. CONFIDENTIALITY**

##### **4.1. Confidential Information**

“Confidential Information” refers to the following items County discloses to Contractor: (a) any document County marks “confidential”; (b) any information County orally designates as “confidential” at the time of disclosure, provided County confirms such designation in writing within 15 business days; (c) and all personal identifying information protected by A.R.S. § 44-1373, whether or not marked “confidential.” County’s Confidential Information also includes (d) any other nonpublic, sensitive information Contractor should reasonably consider as otherwise confidential. Notwithstanding the foregoing, Confidential Information does not include information that: (i) is in Contractor’s possession at the time of disclosure; (ii) is independently developed by Contractor without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Contractor’s improper action or inaction; or (iv) is approved for release in writing by County.

##### **4.2. Nondisclosure**

Contractor will not use Confidential Information for any purpose other than to facilitate the provision of products and services to County pursuant to this Agreement. Contractor: (a) will not disclose Confidential Information to any employee or contractor of Contractor unless such person needs access for such purpose and, in the case of Contractor’s employees and contractors, is subject to a nondisclosure agreement with Contractor/Contractor with terms no less restrictive than those of this Agreement; and (b) will not disclose Confidential Information to any other third party without County’s prior written consent. Without limiting the generality of the foregoing, Contractor will protect Confidential Information with the same degree of care it uses to protect its own confidential information of similar nature and importance, but with no less than reasonable care. Contractor will promptly notify County of any misuse or misappropriation of Confidential Information that comes to Contractor’s attention. Notwithstanding the foregoing, Contractor may disclose Confidential Information as required by applicable law or by proper legal or governmental authority. Contractor will give County prompt notice of any such legal or governmental demand and reasonably cooperate with County in any effort to seek a protective order or otherwise to contest such required disclosure, at County’s expense.

##### **4.3. Termination & Return**

Upon termination or completion of this Agreement, Contractor will return all copies of Confidential Information to County or will destroy such data and confirm destruction in writing in a timely manner not to exceed 60 calendar days.

##### **4.4. Retention of Rights**

This Agreement does not transfer ownership of Confidential Information or grant a license thereto, unless this Agreement specifically provides to the contrary. County will retain all right, title, and interest in and to all Confidential Information.

#### **5. DATA MANAGEMENT & SECURITY**

The provisions of this Section 5 apply only if Contractor receives access to Project Data. Contractor recognizes and agrees that Project Data may contain personally identifiable information or other private information, even if the presence of such information is not labeled or disclosed. An Addendum may waive or modify the obligations of this Section 5 with respect to the subject matter of such Addendum.

##### **5.1. Data Management**

###### **5.1.1. Access, Use, and Legal Compulsion**

Unless it receives County’s prior written consent, Contractor: (i) will not access, process, or otherwise use Project Data other than as necessary to perform as required in this Agreement; (ii) will not give any of its employees access to Project Data except to the extent that such individual needs access to facilitate the provision of products and services to County pursuant to this Agreement and is subject to a reasonable written agreement with Contractor protecting such data, with terms reasonably consistent



with those of this Section 5.1 (Data Management) and of Section 5.2 (Data Security) below; and (iii) will not give any third party access to Project Data, including without limitation Contractor's other customers, except subcontractors subject to Subsection 5.1.4 below. Notwithstanding the foregoing, Contractor may disclose Project Data as required by applicable law or by proper legal or governmental authority. Contractor will give County prompt notice of any such legal or governmental demand and reasonably cooperate with County in any effort to seek a protective order or otherwise to contest such required disclosure, at County's expense.

#### **5.1.2. County's Rights**

County possesses and retains all right, title, and interest in and to Project Data, and Contractor's use and possession thereof is solely on County's behalf. County may access and copy any Project Data in Contractor's possession at any time, and Contractor will reasonably facilitate such access and copying promptly after County's request. The parties recognize and agree that Contractor is a bailee for hire with respect to Project Data.

#### **5.1.3. Handling, Retention, and Deletion**

Contractor will not erase Project Data, or any copy thereof, without County's prior written consent and will follow any written instructions from County regarding retention and erasure of Project Data. Unless prohibited by applicable law, Contractor will purge all systems under its control of all Project Data at such time as County may request. Promptly after erasure, Contractor will certify such erasure to County in writing. In purging or erasing Project Data as required by this Agreement, Contractor will leave no data recoverable on its computers or other media, to the maximum extent commercially feasible. Finally, Contractor will not transfer Project Data outside the continental United States of America, including Alaska, Hawaii, and Canada (the "Approved Region") without County's prior written consent. Contractor's obligations set forth in this Subsection (without limitation) apply likewise to Contractor's successors, including without limitation any trustee in bankruptcy.

#### **5.1.4. Subcontractors**

Contractor will not permit any subcontractor to access Project Data except to the extent that such subcontractor needs access to facilitate the provision of products and services to County pursuant to this Agreement and is subject to a written contract with Contractor protecting the data, with terms reasonably consistent with those of this Section 5.1 (Data Management) and of Section 5.2 (Data Security), specifically including without limitation terms consistent with those of Subsection 5.1.1 (ii) above as applied to subcontractor employees. Contractor will exercise reasonable efforts to ensure that each subcontractor complies with all of the terms of this Agreement related to Project Data. As between Contractor and County, Contractor will pay any fees or costs related to each subcontractor's compliance with such terms, including without limitation terms in Section 5.2 (Data Security) below governing audits and inspections.

#### **5.1.5. Applicable Law**

Contractor will comply with all applicable laws and regulations governing the handling of Project Data and will not engage in any activity related to Project Data that would place County in violation of any applicable law or regulation.<sup>1</sup>

### **5.2. Data Security**

In addition to the requirements below of this Section 5.2, Contractor will exercise commercially reasonable efforts to prevent unauthorized exposure or disclosure of Project Data and will observe any data security procedures set forth in the applicable Addendum.

#### **5.2.1. DataSec Program**

Contractor will maintain, implement, and comply with a written data security program (the "DataSec Program") that requires commercially reasonable policies and procedures to ensure compliance with this Section 5.2 and with Section 5.1 above (Data Management). The DataSec Program's policies and procedures will contain administrative, technical, and physical safeguards, including without limitation: (i) guidelines on the proper disposal of Project Data after it is no longer needed to carry out the purposes of the Agreement; (ii) access controls on electronic systems used to maintain, access, or transmit Project Data; (iii) access restrictions at physical locations containing Project Data; (iv) encryption of electronic Project Data; (v) dual control procedures; (vi) testing and monitoring of electronic systems; and (vii)

procedures to detect actual and attempted attacks on or intrusions into the systems containing or accessing Project Data. Contractor will review the DataSec Program and all other Project Data security precautions regularly, but no less than annually, and update and maintain them to comply with applicable laws, regulations, technology changes, and best practices.

### **5.2.2. Audits & Testing**

5.2.2.1. Contractor will maintain an ISO 27001 certification and will provide such certification to County upon the request of County from time-to-time. In addition, Contractor will annually conduct its own internal security audit and address security gaps in compliance with its security policies and procedures, including without limitation the DataSec Program.

### **5.2.3. Data Breaches**

Contractor will implement and maintain a program for managing actual or suspected Data Breaches. In the event of a Data Breach, or in the event that Contractor suspects a Data Breach, Contractor will (i) promptly notify County by telephone or in person and (ii) cooperate with County and law enforcement agencies, where applicable, to investigate and resolve the Data Breach, including without limitation by providing reasonable assistance to County in notifying injured third parties. In addition, Contractor will provide 1 year of credit monitoring service to any affected individual, unless the Data Breach resulted from County's act or omission. Contractor will give County prompt access to such records related to a Data Breach as County may reasonably request; provided such records will be Contractor's Confidential Information, and Contractor will not be required to provide County with records belonging to, or compromising the security of its other customers. The provisions of this Subsection 5.2.4 do not limit County's other rights or remedies, if any, resulting from a Data Breach.

## **6. RIGHT TO AUDIT**

- 6.1. During the Term, and for a period of five (5) years thereafter, or such longer period as may be required by any law, rule, or regulation applicable to County, Contractor shall maintain and provide, and shall ensure that its subcontractors maintain and provide, access, electronic or otherwise, to complete and accurate books, records, documents, data (specifically excluding County Data), and information relating to Contractor's performance (and any Contractor subcontractor's performance) pursuant to this Agreement, (the "Records").
- 6.2. All such records, documents, data and information shall be maintained in such form (for example, in paper or electronic form) as County may reasonably direct. County shall have the right, during business hours, at its own expense (except as otherwise provided herein), and upon ten (10) days' notice (except to the extent County is unable, using commercially reasonable efforts, to provide such notice and comply with applicable law or the requests of legal authorities), to audit, review, and copy the Records for any reasonable business purpose.
- 6.3. Contractor shall provide to County such assistance as it reasonably requires in connection with audits or examinations pursuant to this Section. Contractor shall reasonably cooperate with County and its designees in connection with audit functions and with regard to examinations by legal authorities, if required.
- 6.4. If any audit or examination reveals that Contractor's invoices for the audited period are not correct, Contractor shall promptly reimburse County for the amount of any overcharges plus an additional amount equal to five percent (5%) of the amount of any overcharge, or County shall promptly pay Contractor for the amount of any undercharges subject to the terms of the Agreement. Any amounts unpaid by Contractor may be set-off by County against any other amounts that may be due to Contractor under the Agreement.
- 6.5. If any audit reveals a discrepancy of more than five percent (5%) of the invoiced amount for any period audited or any non-trivial breach(s) of Contractor's obligation to timely and properly provide and perform the Services, Contractor shall bear the cost of such audit.
- 6.6. Nothing in the Agreement shall limit or restrict the rights of either party in discovery proceedings pursuant to any civil litigation or governmental, regulatory or criminal proceeding.

## **7. CONTRACTOR'S WARRANTIES**

### **7.1. Preexisting Confidential Information**

Contractor represents and warrants that it has, before the effective date, maintained confidential and secret any Confidential Information as required by Section 4 above and protected any Project Data as required by Section 5 above.

**7.2. Intellectual Property**

Contractor represents and warrants that neither the Professional Services nor any Licensed Software, SaaS, or Deliverable will infringe a patent, copyright, trade secret, or other intellectual property right of any third party, and that it has and will maintain the full power and authority to grant the intellectual property rights set forth in this Agreement without the further consent of any third party, including without limitation Contractor's employees and contractors. In case the use of any portion of a Deliverable, Licensed Software, or SaaS is enjoined, Contractor will, at its own expense: (a) procure for County the right to continue use of the Deliverable, Licensed Software, or SaaS; (b) replace the Deliverable, Licensed Software, or SaaS with a non-infringing version of comparable functionality; or if County consents in writing, (c) issue a full refund of fees paid pursuant to such Addendum. The preceding sentence does not limit any County right to recover fees paid pursuant to other Addendums where products or services provided thereunder are compromised or of reduced value as a result of the breach of warranty.

**7.3. No Viruses**

Contractor represents and warrants that the Deliverables, Licensed Software, SaaS, and any other software used or provided by Contractor, as well as any media used to distribute or support them, will contain no viruses or other computer instructions or technological means intended to disrupt, damage, or interfere with the use of computers or related systems.

**7.4. Disclaimer**

EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 7, AND SECTION 12, OR IN AN ADDENDUM, CONTRACTOR OFFERS NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

**8. SURVIVAL & DATA RETURN**

The following provisions of this Agreement will survive any expiration or termination of this Agreement: Sections 4, 5.1, 5.2 (to the extent, if any, that Contractor retains Project Data), 6, and 9, as well as any provision that must survive to fulfill its essential purpose. Furthermore, a grant of property or intellectual property rights to County that by its terms continues for longer than the duration of this Agreement will survive expiration or termination of this Agreement, except termination for County's breach of its obligations to pay for such property or rights. Promptly after termination or expiration of an Addendum or of this Agreement, Contractor will return to County all Project Data and all other County data in such format as County may reasonably require and permanently erase all copies thereof; provided the terms of an Addendum may alter the requirements of this sentence.

**9. LICENSE, SUBSCRIPTION, and SOFTWARE/SaaS ADDENDUMS**

Contractor hereby grants County: (a) a nonexclusive, perpetual, irrevocable, fully-paid, royalty-free, license to reproduce, modify, and otherwise use the Licensed Software and any upgrades, patches, or workarounds supplied by Contractor, under Contractor's copyrights and other intellectual property rights; and (b) a subscription to access and use the SaaS. The license and subscription in the preceding sentence grant rights no less than is consistent with the goals and requirements of the Software/SaaS Addendum. County has the absolute right to upgrade or replace any equipment in the County network and continue to use the Licensed Software on the network. County will not be required to Contractor any additional licensing fee or other fees as a result of using the Licensed Software in conjunction with the upgraded or replacement equipment on the network. County may make a reasonable number of back-up copies of the Licensed Software and related documentation as is strictly necessary for its lawful use. County will maintain records of the number and location of all such copies of the Licensed Software and related documentation. County has the right to deploy a test, production, staging, training, and business backup and/or disaster continuity instance with unrestricted copy restrictions.

**10. SERVICE LEVELS & MAINTENANCE****10.1. Licensed Software Maintenance**

Except to the extent that a Software/SaaS Addendum provides to the contrary:

**10.1.1. Maintenance**

During the term of this Agreement, Contractor will maintain the Licensed Software and SaaS so that they perform in material compliance with their Specifications.

**10.1.2. Updates & Upgrades**

During the term of this Agreement, Contractor will provide County with copies of all new versions, updates, and upgrades of the Licensed Software (collectively, "Upgrades"), without additional charge, promptly after commercial release. Upon delivery to County, Upgrades will become part of the Licensed Software and will be subject to the license and other terms of this Agreement applicable to such Licensed Software.

**10.2. SaaS Service Level Agreement**

Except to the extent that a Software/SaaS Addendum provides to the contrary:

**10.2.1. Service Level Agreement**

During the term of this Agreement, Contractor will maintain the SaaS so that it performs according to its Specifications during 99.9% of each calendar month.

**10.2.2. Updated SaaS**

Contractor will ensure that SaaS receives all updates and upgrades Contractor provides to its customers generally.

**11. TIMING OF MAINTENANCE FEES & SaaS SUBSCRIPTIONS**

11.1. Notwithstanding any provision of an Addendum to the contrary:

11.1.1. No fees for maintenance of Licensed Software or SaaS, including without limitation for Upgrades (as defined in Subsection 10.1.2 above), will accrue before Go-Live (as defined below); and

11.1.2. No period before Go-Live will be counted against the time covered by any maintenance period.

11.2. Unless the applicable Software/SaaS Addendum provides to the contrary:

11.2.1. No fees for use of SaaS will accrue before Go-Live, and

11.2.2. No period before Go-Live will be counted against the time covered by any SaaS subscription fees.

11.3. This Section 11 limits the potential periods of maintenance and of SaaS subscriptions and will not be construed to extend or otherwise define such periods. "Go-Live" refers to the earlier of Acceptance of the Licensed Software or SaaS or County's first use of the Licensed Software or SaaS in production, other than a beta use or test.

**12. FUNCTIONALITY & RELATED WARRANTIES**

Except to the extent that a Software/SaaS Addendum provides to the contrary:

**12.1. Licensed Software Warranties**

Contractor represents and warrants that the Licensed Software will materially conform to its Specifications for 1 year following Acceptance. In the event of breach of the warranty in this Subsection 12.1 (and without limiting any other right or remedy of County), Contractor will promptly repair the Licensed Software or replace it with software of substantially similar functionality, or if the foregoing fails after reasonable efforts and County so requests, refund all fees paid pursuant to this Agreement for such Licensed Software. The preceding sentence: (a) does not limit any County right to recover fees paid pursuant to other Addendums where products or services provided thereunder are compromised or of reduced value as a result of the breach of warranty; and (b) does not limit any maintenance commitments set forth in Subsection 10.1.1 above or in a Software/SaaS Addendum.

**12.2. SaaS Warranties**

Contractor warrants that the SaaS will materially conform to its Specifications. The preceding sentence: (a) does not limit any County right to recover fees paid pursuant to other Addendums where products or services provided thereunder are compromised or of reduced value as a result of the breach of warranty; and (b) does not limit any service level commitments set forth in Subsection 10.1.1 above or in a Software/SaaS Addendum.

**12.3. Supporting Services**

Contractor represents and warrants that it will provide any service that supports Licensed Software or SaaS, including without limitation maintenance services, in a professional and workmanlike manner.

**END OF EXHIBIT C**