

**AGREEMENT FOR SERVICES
BETWEEN THE
CITY OF SANTA CLARA, CALIFORNIA,
AND
LYNGSOE SYSTEMS, INC.**

PREAMBLE

This Agreement, effective as of _____ (“Effective Date”), is entered into between the City of Santa Clara, California, a chartered California municipal corporation with its principal place of business located at 1500 Warburton Avenue, Santa Clara, California 95050 (“City”) and Lyngsoe Systems, Inc., a Maryland corporation, with its principal place of business located at 1664 Bowmans Farm Road, Suite 109, Frederick, MD 21701 (“Contractor”). City and Contractor may be referred to individually as a “Party” or collectively as the “Parties” or the “Parties to this Agreement.”

RECITALS

- A. City desires to secure the services (“Services”) more fully described in this Agreement, at Exhibit A, entitled “Scope of Services”;
- B. Contractor represents that it, and its subcontractors, if any, have the professional qualifications, expertise, necessary licenses and desire to provide certain goods and/or required services of the quality and type which meet objectives and requirements of City; and,
- C. The Parties have specified herein the terms and conditions under which such services will be provided and paid for.

In consideration of the above Recitals and the mutual covenants contained therein, the Parties agree as follows:

AGREEMENT TERMS AND CONDITIONS

1. AGREEMENT DOCUMENTS

The documents forming the entire Agreement between City and Contractor shall consist of these Terms and Conditions and the following Exhibits, which are hereby incorporated into this Agreement by this reference:

Exhibit A – Scope of Services

Exhibit A-1 – Initial Design Drawing

Exhibit A-2 – Returned Goods Form

Exhibit B – Schedule of Fees

Exhibit C – Lyngsoe Terms and Conditions of Sale

Exhibit D – Insurance Requirements

Exhibit E – Labor Compliance Addendum

Exhibit F – LS Remote Customer Support Document

This Agreement, including the Exhibits set forth above, contains all the agreements, representations and understandings of the Parties, and supersedes and replaces any previous agreements, representations and understandings, whether oral or written. In the event of any inconsistency between the provisions of any of the Exhibits and the Terms and Conditions, the Terms and Conditions shall govern and control.

2. TERM OF AGREEMENT

Unless otherwise set forth in this Agreement or unless this paragraph is subsequently modified by a written amendment to this Agreement, the initial term of this Agreement shall begin as of the Effective Date and end on June 30, 2031.

Upon completion of this initial term, this Agreement may be amended to extend the term by up to ten (10) additional years in such increments as determined by the City. Any such extension shall be authorized through a written amendment to this Agreement.

3. SCOPE OF SERVICES & PERFORMANCE SCHEDULE

Contractor shall perform those Services specified in Exhibit A within the time stated in Exhibit A. Time is of the essence.

4. WARRANTY

Contractor expressly warrants that all materials and services covered by this Agreement shall be fit for the purpose intended, shall be free from defect and shall conform to the specifications, requirements and instructions upon which this Agreement is based. Contractor agrees to promptly replace or correct any incomplete, inaccurate or defective Services at no further cost to City when defects are due to the negligence, errors or omissions of Contractor. If Contractor fails to promptly correct or replace materials or services, City may make corrections or replace materials or services and charge Contractor for the cost incurred by City.

5. QUALIFICATIONS OF CONTRACTOR - STANDARD OF CARE

Contractor represents and maintains that it has the expertise in the professional calling necessary to perform the Services, and its duties and obligations, expressed and implied, contained herein, and City expressly relies upon Contractor's representations regarding its skills and knowledge. Contractor shall perform such Services and duties in conformance to and consistent with the professional standards of a specialist in the same discipline in the State of California.

6. COMPENSATION AND PAYMENT

In consideration for Contractor's complete performance of Services, City shall pay Contractor for all materials provided and Services rendered by Contractor in accordance

with Exhibit B, entitled "SCHEDULE OF FEES." The maximum compensation of this Agreement is **three hundred forty-nine thousand, seven hundred forty-eight dollars (\$349,748)**, subject to budget appropriations, which includes all payments that may be authorized for Services and for expenses, supplies, materials and equipment required to perform the Services. All work performed or materials provided in excess of the maximum compensation shall be at Contractor's expense. Contractor shall not be entitled to any payment above the maximum compensation under any circumstance.

7. TERMINATION

- A. Termination for Convenience. City shall have the right to terminate this Agreement, without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Contractor.
- B. Termination for Default. If Contractor fails to perform any of its material obligations under this Agreement, in addition to all other remedies provided by law, City may terminate this Agreement immediately upon written notice to Contractor.
- C. Upon termination, each Party shall assist the other in arranging an orderly transfer and close-out of services. As soon as possible following the notice of termination, but no later than ten (10) days after the notice of termination, Contractor will deliver to City all City information or material that Contractor has in its possession. The City will be responsible for paying Contractor for any costs incurred up to the point of cancellation, subject to the City's receipt of an invoice and the City's verification and approval of costs.

8. ASSIGNMENT AND SUBCONTRACTING

City and Contractor bind themselves, their successors and assigns to all covenants of this Agreement. This Agreement shall not be assigned or transferred without the prior written approval of City. Contractor shall not hire subcontractors without express written permission from City.

Contractor shall be as fully responsible to City for the acts and omissions of its subcontractors, and of persons either directly or indirectly employed by them, as Contractor is for the acts and omissions of persons directly employed by it.

9. NO THIRD PARTY BENEFICIARY

This Agreement shall not be construed to be an agreement for the benefit of any third party or parties and no third party or parties shall have any claim or right of action under this Agreement for any cause whatsoever.

10. INDEPENDENT CONTRACTOR

Contractor and all person(s) employed by or contracted with Contractor to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of City. Contractor has full rights to manage its employees in their performance of Services under this Agreement.

11. CONFIDENTIALITY OF MATERIAL

11.1. "Confidential Information" means, with respect to a Party hereto, all information or material which is either (1) marked or identified as "Confidential," "Restricted," or "Proprietary Information" or other similar marking or identification, or (2) known by the Parties or of the type that is typically to be considered confidential and proprietary. Confidential Information shall consist of all information, whether in written, oral, electronic, or other form, furnished on or after the Effective Date by one of the Parties or its Representatives ("Representative" is defined as any elected and appointed officials, affiliate, director, officer, employee, agent, advisor, consultant, or subcontractor of either of the Parties or their subsidiaries or affiliates) to the other Party or to its Representatives, and specifically includes but is not limited to City's individually identifiable City information, City's patron data, City's Patron information, and the Contractor Technology and related Documentation. In addition, Confidential Information includes all documents, including drafts, preliminary drawings or plans, notes, ideas and communications that City provides to Contractor, unless City authorizes, in writing, the release of said information. From time to time in this Agreement, City's personally identifiable City information, City's patron data, City's patron information shall be referred to "City's Patron Data".

11.2 Contractor and City shall each hold the other's Confidential Information in confidence. For avoidance of doubt, Contractor's Confidential Information shall include Contractor's subcontractors' Confidential Information. Neither Party shall make the other's Confidential Information available in any form to any third party or use the other's Confidential Information for any purpose other than as specified in this Agreement. The Party providing Confidential Information ("Disclosing Party") to the other Party ("Receiving Party") shall remain the sole owner of such information. Nothing contained in this Agreement shall be construed as granting or conferring any right or license in the Confidential Information or in any patents, software or other technology, either expressly or by implication to the other Party, or to its Representatives or to others. The term Confidential Information shall not include any of the following: (1) information already in possession of, or already known to, the Receiving Party as of the Effective Date; (2) information in the public domain at the time of the disclosure, or which, after such disclosure, enters into the public domain through no breach of this Agreement by the Receiving Party or its Representative(s); (3) information lawfully furnished or disclosed to the Receiving Party by a non-party to this Agreement without any obligation of confidentiality and through no breach of this Agreement by the Receiving Party or its Representative(s); (4) information independently developed by either Party without use of any Confidential Information; (5) information authorized in writing by the Disclosing Party to be released from the confidentiality obligations herein, (6) this Agreement.

11.3. This Agreement does not diminish, revoke or supersede any existing confidentiality, non-disclosure or similar agreement between the Parties. The obligations of the Parties set forth in this Section are in addition to the obligations of the Parties set forth in any existing confidentiality, non-disclosure or similar agreement or otherwise arising under applicable law. In the event that this Section is in conflict with any provision of an existing agreement covering confidentiality or non-disclosure obligations, the provision that provides stronger protection to the Disclosing Party shall govern.

11.4. The Receiving Party will treat all Confidential Information, no matter written, electronic, or oral, as confidential and proprietary, and the Receiving Party shall only use

the information for City-authorized Project uses. As such, the Receiving Party shall hold in confidence the Confidential Information, and ensure that the Confidential Information is not disclosed to any other person or entity, except as expressly permitted by this Agreement. Receiving Party shall not disclose Confidential Information received under this Agreement to any person other than its Representatives who require knowledge of the Confidential Information in furtherance of City-authorized Project uses. The Receiving Party shall inform its Representatives of the confidential nature of the Confidential Information and advise such Representatives of the limitations on the use and disclosure and prohibition on making copies or summaries of the Confidential Information. The Receiving Party shall be responsible for any breach of this Agreement by its Representatives. Neither Contractor nor its Representatives shall use the Confidential Information for any commercial purpose.

11.5. If the Receiving Party becomes legally compelled (by oral questions, interrogatories, request for information or documents, subpoena, civil investigative demand, or similar process) to disclose any Confidential Information, the Receiving Party will provide the Disclosing Party with prompt written notice so that the Disclosing Party may seek a protective order or other appropriate remedy or waive compliance with the provisions of this Agreement. So long as it is consistent with applicable law, the Receiving Party will not oppose action by, and the Receiving Party will cooperate with, the Disclosing Party, at the Disclosing Party's sole cost and expense, to obtain an appropriate protective order or other reliable assurance that confidential treatment will be accorded the Confidential Information. If the Disclosing Party fails to obtain such protective order or other remedy within five (5) business days, or if the Disclosing Party waives compliance with the requirements of the preceding sentence, the Receiving Party will disclose only that Confidential Information that it is legally required to disclose, and will exercise commercially reasonable efforts, at Disclosing Party's expense, to obtain reliable assurance that confidential treatment will be accorded the Confidential Information so disclosed.

11.6. In the event the Receiving Party discloses, disseminates or releases any Confidential Information, except as expressly permitted by this Agreement, such disclosure, dissemination or release will be deemed a material breach of this Agreement and the Disclosing Party may demand prompt return of all Confidential Information previously provided to the Receiving Party. As soon as the Receiving Party becomes aware that it has made an unauthorized disclosure of Confidential Information, the Receiving Party shall take any and all necessary actions to recover the improperly disclosed Confidential Information and immediately notify Disclosing Party regarding the nature of the unauthorized disclosure and the corrective measures being taken. Each Party agrees that any breach of their confidentiality obligations could cause irreparable harm to the other Party, the amount of which would be extremely difficult to estimate. Accordingly, it is understood and agreed that monetary damages would not be a sufficient remedy for any material breach of this Agreement and that specific performance and injunctive relief in addition to monetary damages shall be appropriate remedies for any breach or any threat of such breach. The provisions of this Paragraph are in addition to any other legal rights or remedies the Receiving Party may have under federal or state law.

11.7. Contractor acknowledges that although City will endeavor to include in the Confidential Information those materials that are believed to be reliable and relevant, City makes no representation or warranty as to the accuracy or completeness of the

Confidential Information. Contractor agrees that neither City nor its Representatives shall have any liability to Contractor or its representatives for use of the Confidential Information.

11.8. Contractor agrees to provide City with copies of all data, reports, and publications that are produced as a result of having access to Confidential Information.

11.9. Within two (2) weeks of the termination of this Agreement, each Party will return to the other Party any and all Confidential Information, including all originals, copies, translations, transcriptions or any other form of said material, without retaining any copy or duplicate thereof. To the extent permitted by law, and if authorized in writing by the City Librarian, Contractor shall promptly destroy any and all electronic and hardcopy versions of City Confidential Information, as well as any documents consisting of excerpts or portions of the Confidential Information. Contractor shall certify in writing the destruction of the Confidential Information. To the extent permitted by law, and if authorized in writing by the Contractor, City shall promptly destroy any and all electronic and hardcopy versions of the Contractor Confidential Information, as well as any documents consisting of excerpts or portions of the Confidential Information. City shall certify in writing the destruction of the Confidential Information. City may perform an audit of Contractor's records to confirm the return or destruction of the Confidential Information at Contractor's sole cost and expense. City shall have this audit right for three (3) years after the termination of this Agreement.

11.10. City owns the data stored in the equipment and associated software described in Exhibit A, and Contractor shall grant City access to the data, including exporting it directly from its database, at any time up to one (1) year after Agreement termination or expiration. Contractor shall delete such data as directed by City.

11.11. Contractor may allow its Representatives who are subcontractors or subconsultants to access City's Confidential Information solely as necessary for Contractor to perform the Services under this Agreement and for no other purpose whatsoever; provided, those Representatives execute a confidentiality agreement offering protections substantially similar to those contained in this Agreement.

11.12. Contractor shall implement and maintain technical and organizational measures to protect City's Confidential Information against accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access as described in accordance with the highest industry standard and applicable law, including, but not limited to, Article 1, Section 1 of the California Constitution; AB-375, the California Consumer Privacy Act; European Union Regulation (EU) 2016/679 General Data Protection Regulation (GDPR); the California Information Practices Act (Civil Code § 1798 et seq.); the California Confidentiality of Medical Information Act (Civil Code § 56 et seq.); the federal Gramm-Leach-Bliley Act (15 U.S.C. §§ 6801(b) and 6805(b)(2)); the privacy and information security aspects of the Administrative Simplification provisions of the federal Health Insurance Portability and Accountability Act (45 CFR Part 160 and Subparts A, C, and E of part 164). Contractor shall adopt and maintain throughout the Term such security measures to encrypt City's Patron Data and other Confidential Information of City; to help ensure ongoing confidentiality, integrity, availability and resilience of the Services; to help restore timely access to City Confidential Information following an incident; and for regular testing of the effectiveness of Solution security. Contractor shall update or modify its data security measures from time to time provided that such updates and

modifications do not result in the degradation of the overall security of the Services. Contractor shall ensure compliance with its data security measures described herein by its Representatives to the extent applicable to their scope of performance. Without limiting City's remedies and notwithstanding anything to the contrary in this Agreement, Contractor shall immediately investigate and remediate any accidental or unlawful destruction, loss, alteration, unauthorized disclosure or access of City's Confidential Information and take such actions as required by City in connection therewith.

11.13. Contractor is responsible for maintaining a backup of City's Patron Data and for an orderly and timely recovery of such data in the event of data corruption or interruption of the services provided hereunder. Unless otherwise described in Exhibit A, Contractor shall maintain a contemporaneous backup of City's Patron Data that can be recovered within the requirements in this Agreement and maintaining the security of City's Patron Data as further described herein. Contractor's backup of City's Patron Data shall not be considered in calculating storage used by City.

12. 11.14. THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT. OWNERSHIP OF MATERIAL

All material, which shall include, but not be limited to, data, sketches, tracings, drawings, plans, diagrams, quantities, estimates, specifications, proposals, tests, maps, calculations, photographs, reports, designs, technology, programming, works of authorship and other material developed, collected, prepared or caused to be prepared under this Agreement shall be the property of City but Contractor may retain and use copies thereof. City shall not be limited in any way or at any time in its use of said material. However, Contractor shall not be responsible for damages resulting from the use of said material for work other than Project, including, but not limited to, the release of this material to third parties.

13. RIGHT OF CITY TO INSPECT RECORDS OF CONTRACTOR

City, through its authorized employees, representatives or agents shall have the right during the term of this Agreement and for four (4) years from the date of final payment for goods or services provided under this Agreement, to audit the books and records of Contractor for the purpose of verifying any and all charges made by Contractor in connection with Contractor compensation under this Agreement, including termination of Contractor. Contractor agrees to maintain sufficient books and records in accordance with generally accepted accounting principles to establish the correctness of all charges submitted to City. Any expenses not so recorded shall be disallowed by City. Contractor shall bear the cost of the audit if the audit determines that there has been a substantial billing deviation in excess of five (5) percent adverse to the City.

Contractor shall submit to City any and all reports concerning its performance under this Agreement that may be requested by City in writing. Contractor agrees to assist City in meeting City's reporting requirements to the State and other agencies with respect to Contractor's Services hereunder.

14. HOLD HARMLESS/INDEMNIFICATION

A. To the extent permitted by law, Contractor agrees to protect, defend, hold harmless and indemnify City, its City Council, commissions, officers, employees,

volunteers and agents from and against any claim, injury, liability, loss, cost, and/or expense or damage, including all costs and attorney's fees in providing a defense to any such claim or other action, and whether sounding in law, contract, tort, or equity, in any manner arising from, or alleged to arise in whole or in part from, or in any way connected with the Services performed by Contractor pursuant to this Agreement – including claims of any kind by Contractor's employees or persons contracting with Contractor to perform any portion of the Scope of Services – and shall expressly include passive or active negligence by City connected with the Services. However, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of City; the obligation to defend is not similarly limited.

- B. Contractor's obligation to protect, defend, indemnify, and hold harmless in full City and City's employees, shall specifically extend to any and all employment-related claims of any type brought by employees, contractors, subcontractors or other agents of Contractor, against City (either alone, or jointly with Contractor), regardless of venue/jurisdiction in which the claim is brought and the manner of relief sought.
- C. To the extent Contractor is obligated to provide health insurance coverage to its employees pursuant to the Affordable Care Act ("Act") and/or any other similar federal or state law, Contractor warrants that it is meeting its obligations under the Act and will fully indemnify and hold harmless City for any penalties, fines, adverse rulings, or tax payments associated with Contractor's responsibilities under the Act.
- D. The Parties expressly agree that this Section 14 (HOLD HARMLESS/INDEMNIFICATION) will survive the expiration or early termination of the Agreement.

15. INSURANCE REQUIREMENTS

During the term of this Agreement, and for any time period set forth in Exhibit D, Contractor shall provide and maintain in full force and effect, at no cost to City, insurance policies as set forth in Exhibit D.

16. WAIVER

Contractor agrees that waiver by City of any one or more of the conditions of performance under this Agreement shall not be construed as waiver(s) of any other condition of performance under this Agreement. Neither City's review, acceptance nor payments for any of the Services required under this Agreement shall be constructed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

17. NOTICES

All notices to the Parties shall, unless otherwise requested in writing, be sent to City addressed as follows:

City of Santa Clara
Attention: Santa Clara City Library
1500 Warburton Avenue
Santa Clara, CA 95050
and by e-mail at pwong@santaclaraca.gov

And to Contractor addressed as follows:

Lyngsoe Systems, Inc.
Attention: Cory McCoy
1664 Bowmans Farm Road, Suite 109
Frederick, MD 21701
and by e-mail at clm@lyngsoesystems.com

The workday the e-mail was sent shall control the date notice was deemed given. An e-mail transmitted after 1:00 p.m. on a Friday shall be deemed to have been transmitted on the following business day.

18. COMPLIANCE WITH LAWS

Contractor shall comply with all applicable laws and regulations of the federal, state and local government, including but not limited to "The Code of the City of Santa Clara, California" ("SCCC"). In particular, Contractor's attention is called to the regulations regarding Campaign Contributions (SCCC Chapter 2.130), Lobbying (SCCC Chapter 2.155), Minimum Wage (SCCC Chapter 3.20), Business Tax Certificate (SCCC section 3.40.070), and Food and Beverage Service Worker Retention (SCCC Chapter 9.60), as such Chapters or Sections may be amended from time to time or renumbered. Additionally Contractor has read and agrees to comply with City's Ethical Standards (<http://santaclaraca.gov/home/showdocument?id=58299>).

19. CONFLICTS OF INTEREST

Contractor certifies that to the best of its knowledge, no City officer, employee or authorized representative has any financial interest in the business of Contractor and that no person associated with Contractor has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement. Contractor is familiar with the provisions of California Government Code section 87100 and following, and certifies that it does not know of any facts which would violate these code provisions. Contractor will advise City if a conflict arises.

20. FAIR EMPLOYMENT

Contractor shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic

information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.

21. NO USE OF CITY NAME OR EMBLEM

Contractor shall not use City's name, insignia, or emblem, or distribute any information related to services under this Agreement in any magazine, trade paper, newspaper or other medium without express written consent of City.

22. GOVERNING LAW AND VENUE

This Agreement and all related licenses and documents shall be governed and construed in accordance with the statutes and laws of the State of California. The venue of any suit filed by either Party shall be vested in the state courts of the County of Santa Clara, or if appropriate, in the United States District Court, Northern District of California, San Jose, California. This section shall govern any and all duties and disputes arising out of the provision of services under this Agreement and its attachments.

23. SEVERABILITY CLAUSE

In case any one or more of the provisions in this Agreement shall, for any reason, be held invalid, illegal or unenforceable in any respect, it shall not affect the validity of the other provisions, which shall remain in full force and effect.

24. AMENDMENTS

This Agreement may only be modified by a written amendment duly authorized and executed by the Parties to this Agreement.

25. COUNTERPARTS

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but both of which shall constitute one and the same instrument.

Signatures on next page

The Parties acknowledge and accept the terms and conditions of this Agreement as evidenced by the following signatures of their duly authorized representatives.

CITY OF SANTA CLARA, CALIFORNIA
a chartered California municipal corporation

Approved as to Form:

Dated: _____

GLEN R. GOOGINS
City Attorney

JÓVAN D. GROGAN
City Manager
City of Santa Clara
1500 Warburton Avenue
Santa Clara, CA 95050
Telephone: (408) 615-2210
Fax: (408) 241-6771

“CITY”

LYNGSOE SYSTEMS, INC.
a Maryland corporation

Dated: _____

By (Signature): _____

Name: Cory McCoy

Title: President

Principal Place of Business Address: 1664 Bowmans Farm Road, Suite 109
Frederick, MD 21701

Email Address: clm@lyngsoesystems.com

Telephone: 240-674-8443

Fax: _____

“CONTRACTOR”

**EXHIBIT A
SCOPE OF SERVICES**

A. CONTRACTOR’S RESPONSIBILITIES

Contractor will furnish and install a new Automated Materials Handling System (“AMHS”) at the City’s Northside Branch Library (“Northside”), located at 695 Moreland Way, Santa Clara, CA 95054. The scope of services will include the following Services:

1. GENERAL SERVICES

1.1. Design, manufacture, deliver, install and commission an Automated Materials Handling System (“AMHS”). Contractor will complete the specific tasks within the timeframes listed in the table below, unless otherwise approved in writing by the City.

TASK	Duration
Project Kickoff with Library	1 day
Design Review	4 days
System Design Approval	0 days
Final review	2 days
Manufacturing	8 weeks
Shipping	10 weeks
Installation	2.3 weeks
Removal of old system	2 days
Patron Induction Installation	1 day
Sorter(s) installation	5 days
Staff induction installation	1 day
System Wiring	1 day
Commissioning	.54 weeks
Internal I/O testing (LVL 5)	.25 days
Component functional testing (LVL 4)	.25 days
System testing (LVL 3)	.25 days
Integration testing (LVL 2)	.25 days
Acceptance testing (LVL 1)	1 day
Training and Standby Support	1 day
Go Live	0 days

- 1.2. Provide all labor, equipment, hardware, software, tools, and supplies required to fulfill the Services.
- 1.3. Ensure the AMHS design adheres to the specifications listed in Exhibit A-1, entitled "Initial Design Drawing", unless otherwise authorized in writing by the City.
- 1.4. Collaborate with the City as needed by the City to specify any building modifications that may be required to correctly install the AMHS. Any building modifications required to accommodate the final design, as approved by the City, will be the responsibility of the City. The City will coordinate with Contractor as needed to ensure modifications are complete at the needed intervals in the delivery and install process.
- 1.5. Conduct user acceptance testing prior to receiving City's final approval and acceptance of the new AMHS.
- 1.6. Upon completion of acceptance testing, Contractor will provide initial training and standby support as further detailed below.
 - 1.6.1. Role-specific training including Operator training, Maintainer training, and Administrator training. Operator and Maintainer training will be provided on-site at Northside. Administrator training will be provided virtually unless otherwise requested by Northside.
 - 1.6.2. Each training will be limited to groups of up to ten (10) staff.
 - 1.6.3. Follow-up training will be provided upon the request of the City to orient new staff or when system changes occur.
 - 1.6.4. Copies of all training materials, including quick reference guides, user manuals and support contacts will be provided to Northside upon completion of training.
 - 1.6.5. Upon the request of the City, Contractor will record videos of initial training sessions and release them to Northside to incorporate into internal training plans for onboarding future staff.
 - 1.6.6. The training services described in this Section 1.6 are included in the cost for General Services as detailed in Exhibit B. For onsite trainings requested by the City that exceed four hours, additional charges will apply.

2. EQUIPMENT

The individual components that collectively comprise the AMHS and that will be provided to the City under the terms and conditions of this Agreement are listed in the table below.

AMHS EQUIPMENT DESCRIPTION	QTY
Sortation System (9 Bin)	

LibraryMate LM2100 Exterior check in station (RFID) with touchscreen interface, patron shelf, and patron receipt printer	1
Ergo Staff ES1200 Staff induction check in station (RFID) with touchscreen interface, height adjustable work surface, backdating, and hold slip printer	1
Sort Mate SM2000 High-Speed Sorter with 9 destinations. Includes -(1) Lyngsoe Sort Controller advanced software -(5) Ergo Trolley destinations with chute full capacity -(3) Foldable Tote shelf/Ergo Trolley destinations with chute full capacity -(1) Sort destination exceptions bin with chute full capacity	1
Return Kiosk (1 Bin)	
LibraryMate LM2100 Exterior check in station (RFID) with touchscreen interface, patron shelf, and patron receipt printer	1
Ergo Trolley (Medium)	12
Accessories	
Graphical System Monitor	1

3. MAINTENANCE AND SUPPORT SERVICES

3.1. Hotline Services. Lyngsoe Systems Hotline Services (“Hotline”) are available to the City in the event the City needs assistance from a Lyngsoe Systems Engineer. Hotline services will include the following, at a minimum:

- 3.1.1.** Continuous Hotline access 24 hours a day/7 days per week.
- 3.1.2.** Omnitracker service platform access for issue tracking and escalation.
- 3.1.3.** Initial troubleshooting by a Hotline engineer within fifteen (15) minutes of receipt of the call.
- 3.1.4.** Remote diagnostics testing and live virtual support facilitated via telephone and/or VPN connection.
- 3.1.5.** Documentation of each incident will be provided to the City upon close of ticket and will include a description of the issue, steps taken to resolve the issue, the outcome and any additional recommendations to support optimal functioning.
- 3.1.6.** Unless otherwise agreed upon in writing by City and Contractor, Hotline services will not be available on the following dates:

December 24th
December 25th

December 31st
January 1st

3.2. Spare Parts Service. Contractor will provide Northside with a spare parts kit for use by Northside staff to conduct the recommended routine user maintenance and resolve any minor operational issues that do not require Contractor support. Failure by City staff to adhere to any recommended maintenance shall not change the warranties and responsibilities applicable to the goods and services provided under this Agreement. Spare parts services will include the following, at a minimum:

3.2.1. Coordination with the City to determine the appropriate parts to be kept onsite.

3.2.2. Replenishment of the spare parts kit as-needed during routine/preventative maintenance visits.

3.2.3. Extended Parts Warranty

3.2.3.1. If at any time during the initial or extended warranty period a part should fail and it is not part of the supplied Spare Parts Kit, Contractor will ship a part to site as soon as possible. This will be done on mutual agreement that the failed part will be shipped back to Contractor as soon as the new one is installed with a completed Returned Goods Form (Exhibit A-2). Failure to ship back the failed part will result in Contractor invoicing the City for the new part; invoicing the fair market value of the new part shall be the sole remedy for the City's failure to ship.

3.2.3.2. If Contractor requests the failed part to not be shipped back no charges will be incurred by the City.

3.3. Parts To Site. In the event a system part, which is not in the spare parts kit, is needed and the City is covered by the extended parts warranty the following process shall apply:

3.3.1. Man-On-Site

3.3.1.1. If a problem cannot be solved remotely Contractor shall send a technician to the City site within in the time agreed to between City and Contractor.

3.3.1.2. For Man-On-Site requests made during normal business hours (8:00 am – 4:30 pm, Monday through Friday EST), the technician will leave for the City site immediately. If the request is outside normal business hours, a technician will leave for the City site before noon the following weekday.

3.3.1.3. The City will make the AMHS available to technician while on-site.

3.4. Preventative Maintenance Services. Contractor will provide routine, preventative maintenance to the AMHS, including but not limited to the following:

- 3.4.1. One (1) on-site preventative maintenance visit per year. Contractor and City shall mutually agree on the date and time of the visit. City will ensure a staff representative is in attendance for the duration of each visit for knowledge transfer and education.
- 3.4.2. Preventative maintenance visits will include the following tasks, at a minimum:
 - 3.4.2.1. Inspection and health check
 - 3.4.2.2. Adjustment of parts
 - 3.4.2.3. Replacement of wearing parts
 - 3.4.2.4. System optimization
 - 3.4.2.5. Check of controls system
 - 3.4.2.6. Review of spare parts inventory
- 3.4.3. Submission of a Service Visit Report to the City upon completion of the visit.

4. EXISTING SYSTEM REMOVAL

- 4.1. Upon the request of the City, Contractor will deconstruct and remove Northside's existing AMHS during the installation phase of the new AMHS.

B. CITY RESPONSIBILITIES

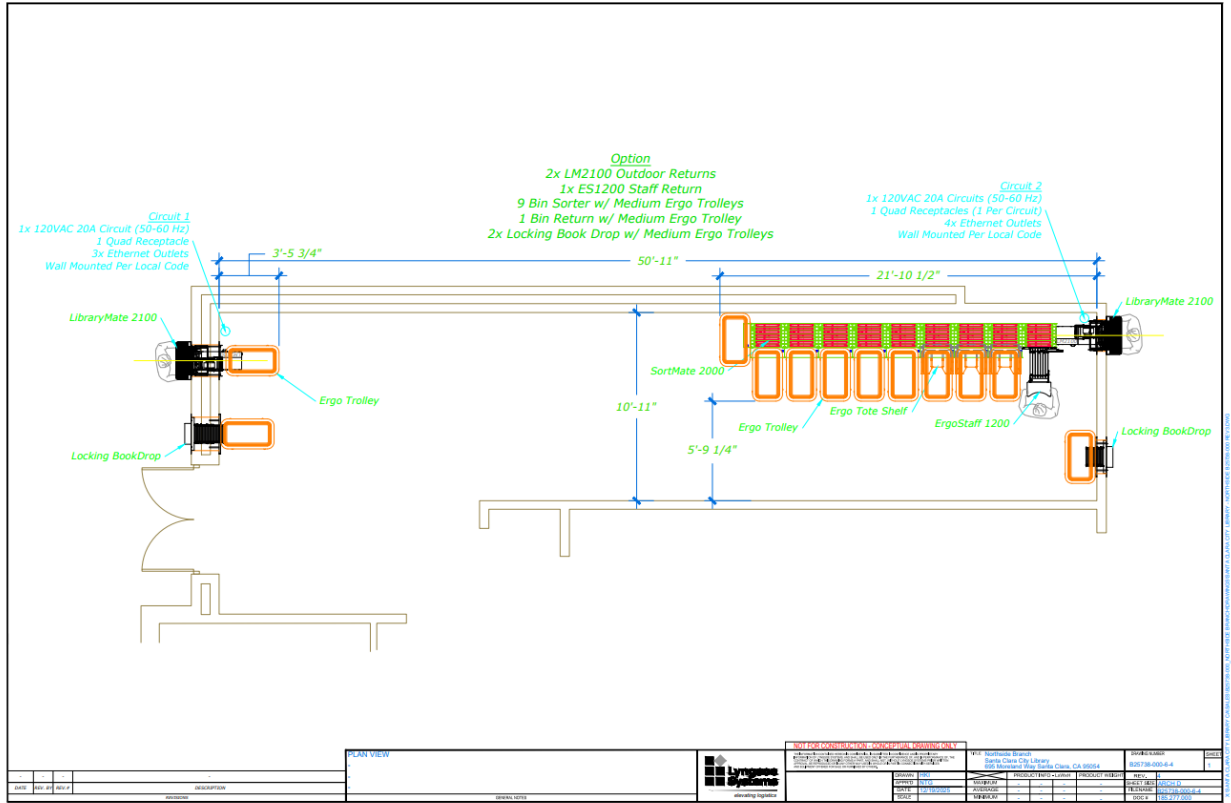
To support the timely, successful installation and functioning of the AMHS, the City will provide the following:

- 1. Any necessary permits and/or licenses.
- 2. Power to a location near the sorter and coordinated points near the conveyor route (within 10 feet) 120V single phase.
- 3. If required, details of structural, or imbedded obstructions within floor or ceiling structures. X-ray or other methods is not included unless otherwise specified.
- 4. One network drop per Library Mate™ or Ergo Staff™, one for each sorter for communication and support, and one for onsite commissioner.
- 5. One SIP license for each check-in station.
- 6. Allow for site to site VPN (IPSEC) for commissioning and ongoing hotline support. Additional details contained in LS Remote Customer Support document, attached as Exhibit F).
- 7. A clear path for access to and from the installation site for personnel and equipment.
- 8. A secure, dry, convenient storage for equipment, tools and materials used on site.
- 9. Adequate working space for the installation crew. Provide lighting for installation at the location where the work is to be performed. Provide parking and restroom facilities.

10. If special lift equipment is required, Contractor must have access to a ramp door.
11. Areas of installation to be broom swept by other contractors prior to the start of Contractor installation.
12. No later than the scheduled start of installation date, ensure the installation site is free and clear and ready for Contractor to begin installation. Contractor acknowledges that some degree of facility construction may be underway during installation. City acknowledges its responsibility to minimize possible resulting disruptions to Contractor installation process.
13. No later than start of installation date, ensure all civil work and necessary removal or modifications of existing equipment or buildings is complete. For instance, the building modifications required for the installation of the Library Mates™ in exterior or interior walls, and penetration points through walls required by the conveyor run.

Failure by the City to meet any of the above responsibilities shall not change Contractor's obligation to adhere to and fulfill its obligations under this Agreement. In the event that the City has a delay in fulfilling any of the above responsibilities, Contractor shall reasonably coordinate with the City to come to a mutually agreeable solution.

**EXHIBIT A-1
INITIAL DESIGN DRAWING**



**EXHIBIT A-2
RETURNED GOODS FORM**

Goods returned by:	<input type="checkbox"/> Patron <input type="checkbox"/> Lyngsoe <input type="checkbox"/> Other		
Site name:		Project number:	
Address:			
Goods are returned because of:	<input type="checkbox"/> Claim – flaw on goods		<input type="checkbox"/> Warranty
	<input type="checkbox"/> Repair/replacement of the goods		
	<input type="checkbox"/> Other		
State reason for return: (State serial no., model and error code if such shows)			
Lyngsoe part number:			
Part Name:			
Serial number:			
Date of failure:			

Date of shipment:	
Shipping information:	
<p style="color: red;">Please send this form via email to:</p> <p style="color: red;">LSU@lyngsoesystems.com</p> <p style="color: red;">A COPY OF THIS FORM MUST ALSO BE ATTACHED TO THE GOODS.</p>	<p>Please send parts to:</p> <p>Laura Corbin Lyngsoe Systems Inc. 1664 Bowmans Farm Road Suite 109 Frederick, MD 21703</p>

**EXHIBIT B
SCHEDULE OF FEES**

Contractor will be compensated for Services according to the fee schedule below.

1. FEE SCHEDULE

SERVICE	PAYMENT DETAILS	COST
GENERAL SERVICES		
General Services and Equipment	Fixed fee to be paid upon completion ¹ of the following milestones: -20% upon completion of project kick-off -35% upon shipping confirmation -45% upon Go-Live	\$238,061
9.125% Sales Tax	Estimated applicable sales tax, to be applied on invoice	\$21,723
10% Contingency	Additional funding to support unforeseen needs or additional features, authorized in writing by the City.	\$25,978
	GENERAL SERVICES NOT-TO-EXCEED	\$285,762
MAINTENANCE & SUPPORT SERVICES		
Year 1	N/A	Included
Year 2	Fixed fee, invoiced annually	\$14,099

Year 3		\$14,522
Year 4		\$14,958
Year 5		\$15,407
	MAINTENANCE & SUPPORT NOT-TO-EXCEED	\$58,986
EXISTING SYSTEM REMOVAL		
Existing System Removal	One time, fixed fee upon receipt of invoice	\$5,000
AS-NEEDED TRAINING		
OnSite Training Under 4 Hours		Included
Virtual/Remote Training		Included
Onsite Training Exceeding 4 hours	Hourly rate for as-needed training	\$165/hour
	TOTAL NOT-TO-EXCEED AMOUNT	\$349,748

¹ Whether a milestone has been completed shall be determined in the City's sole discretion.

2. INVOICING

Contractor will bill the City according to the Payment Details listed in the Fee Schedule (Section 1) of this Exhibit B. Contractor will submit invoices on a format approved by the City and subject to verification and approval by the City. City will pay Contractor within thirty (30) days of receipt of an approved and verified invoice.

EXHIBIT C LYNGSOE TERMS AND CONDITIONS OF SALE

EXHIBIT D
INSURANCE REQUIREMENTS

Without limiting the Contractor's indemnification of the City, and prior to commencing any of the Services required under this Agreement, the Contractor shall provide and maintain in full force and effect during the period of performance of the Agreement and for twenty-four (24) months following acceptance by the City, at its sole cost and expense, the following insurance policies from insurance companies authorized to do business in the State of California. These policies

shall be primary insurance as to the City of Santa Clara so that any other coverage held by the City shall not contribute to any loss under Contractor's insurance. The minimum coverages, provisions and endorsements are as follows:

A. COMMERCIAL GENERAL LIABILITY INSURANCE

1. Commercial General Liability Insurance policy which provides coverage at least as broad as Insurance Services Office form CG 00 01. Policy limits are subject to review, but shall in no event be less than, the following:

\$1,000,000 Each Occurrence
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations Aggregate
\$1,000,000 Personal Injury

2. Exact structure and layering of the coverage shall be left to the discretion of Contractor; however, any excess or umbrella policies used to meet the required limits shall be at least as broad as the underlying coverage and shall otherwise follow form.
3. The following provisions shall apply to the Commercial Liability policy as well as any umbrella policy maintained by the Contractor to comply with the insurance requirements of this Agreement:
 - a. Coverage shall be on a "pay on behalf" basis with defense costs payable in addition to policy limits;
 - b. There shall be no cross liability exclusion which precludes coverage for claims or suits by one insured against another; and
 - c. Coverage shall apply separately to each insured against whom a claim is made or a suit is brought, except with respect to the limits of liability.

B. BUSINESS AUTOMOBILE LIABILITY INSURANCE

Business automobile liability insurance policy which provides coverage at least as broad as ISO form CA 00 01 with policy limits a minimum limit of not less than one million dollars (\$1,000,000) each accident using, or providing coverage at least as broad as, Insurance Services Office form CA 00 01. Liability coverage shall apply to all owned (if any), non-owned and hired autos.

C. WORKERS' COMPENSATION

1. Workers' Compensation Insurance Policy as required by statute and employer's liability with limits of at least one million dollars (\$1,000,000) policy limit Bodily Injury by disease, one million dollars (\$1,000,000) each accident/Bodily Injury and one million dollars (\$1,000,000) each employee Bodily Injury by disease.
2. The indemnification and hold harmless obligations of Contractor included in this Agreement shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefit payable by or for Contractor or any

subcontractor under any Workers' Compensation Act(s), Disability Benefits Act(s) or other employee benefits act(s).

3. This policy must include a Waiver of Subrogation in favor of the City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents.

D. PROFESSIONAL LIABILITY

Professional Liability or Errors and Omissions Insurance as appropriate shall be written on a policy form coverage specifically designed to protect against negligent acts, errors or omissions of the Contractor. Covered services as designated in the policy must specifically include work performed under this agreement. Coverage shall be in an amount of not less than one million dollars (\$1,000,000) per claim or two million dollars (\$2,000,000) aggregate. Any coverage containing a deductible or self-retention must first be approved in writing by the City Attorney's Office.

E. COMPLIANCE WITH REQUIREMENTS

All of the following clauses and/or endorsements, or similar provisions, must be part of each commercial general liability policy, and each umbrella or excess policy.

1. Additional Insureds. City of Santa Clara, its City Council, commissions, officers, employees, volunteers and agents are hereby added as additional insureds in respect to liability arising out of Contractor's work for City, using Insurance Services Office (ISO) Endorsement CG 20 10 11 85, or the combination of CG 20 10 03 97 and CG 20 37 10 01, or its equivalent.
2. Primary and non-contributing. Each insurance policy provided by Contractor shall contain language or be endorsed to contain wording making it primary insurance as respects to, and not requiring contribution from, any other insurance which the indemnities may possess, including any self-insurance or self-insured retention they may have. Any other insurance indemnities may possess shall be considered excess insurance only and shall not be called upon to contribute with Contractor's insurance.
3. Cancellation.
 - a. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided due to non-payment of premiums shall be effective until written notice has been given to City at least ten (10) days prior to the effective date of such modification or cancellation. In the event of non-renewal, written notice shall be given at least ten (10) days prior to the effective date of non-renewal.
 - b. Each insurance policy shall contain language or be endorsed to reflect that no cancellation or modification of the coverage provided for any cause save and except non-payment of premiums shall be effective until written notice has been given to City at least thirty (30) days prior to the effective date of such modification or cancellation. In the event of non-

renewal, written notice shall be given at least thirty (30) days prior to the effective date of non-renewal.

4. Other Endorsements. Other endorsements may be required for policies other than the commercial general liability policy if specified in the description of required insurance set forth in Sections A through E of this Exhibit D, above.

F. ADDITIONAL INSURANCE RELATED PROVISIONS

Contractor and City agree as follows:

1. Contractor agrees to ensure that subcontractors, and any other party involved with the Services, who is brought onto or involved in the performance of the Services by Contractor, provide the same minimum insurance coverage required of Contractor, except as with respect to limits. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this Agreement. Contractor agrees that upon request by City, all agreements with, and insurance compliance documents provided by, such subcontractors and others engaged in the project will be submitted to City for review.
2. Contractor agrees to be responsible for ensuring that no contract used by any party involved in any way with the project reserves the right to charge City or Contractor for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to City. It is not the intent of City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against City for payment of premiums or other amounts with respect thereto.
3. The City reserves the right to withhold payments from the Contractor in the event of material noncompliance with the insurance requirements set forth in this Agreement.

G. EVIDENCE OF COVERAGE

Prior to commencement of any Services under this Agreement, Contractor, and each and every subcontractor (of every tier) shall, at its sole cost and expense, provide and maintain not less than the minimum insurance coverage with the endorsements and deductibles indicated in this Agreement. Such insurance coverage shall be maintained with insurers, and under forms of policies, satisfactory to City and as described in this Agreement. Contractor shall file with the City all certificates and endorsements for the required insurance policies for City's approval as to adequacy of the insurance protection.

H. EVIDENCE OF COMPLIANCE

Contractor or its insurance broker shall provide the required proof of insurance compliance, consisting of Insurance Services Office (ISO) endorsement forms or their equivalent and the ACORD form 25-S certificate of insurance (or its equivalent), evidencing all required coverage shall be delivered to City, or its representative as set

A. PREVAILING WAGE REQUIREMENTS

1. Contractor shall be obligated to pay not less than the General Prevailing Wage Rate, which can be found at www.dir.ca.gov, which shall be available to any interested party upon request. Contractor is also required to have a copy of the applicable wage determination posted and/or available at each job site.
2. Specifically, contractors are reminded of the need for compliance with Labor Code Section 1774-1775 (the payment of prevailing wages and documentation of such), Section 1776 (the keeping and submission of accurate certified payrolls) and 1777.5 in the employment of apprentices on public works projects. Further, overtime must be paid for work in excess of 8 hours per day or 40 hours per week pursuant to Labor Code Section 1811-1813.
3. Special prevailing wage rates generally apply to work performed on weekends, holidays and for certain shift work. Depending on the location of the project and the amount of travel incurred by workers on the project, certain travel and subsistence payments may also be required. Contractors and subcontractors are on notice that information about such special rates, holidays, premium pay, shift work and travel and subsistence requirements can be found at www.dir.ca.gov.
4. Only bona fide apprentices actively enrolled in a California Division of Apprenticeship Standards approved program may be employed on the project as an apprentice and receive the applicable apprenticeship prevailing wage rates. Apprentices who are not properly supervised and employed in the appropriate ratio shall be paid the full journeyman wages for the classification of work performed.
5. As a condition to receiving progress payments, final payment and payment of retention on any and all projects on which the payment of prevailing wages is required, Contractor agrees to present to City, along with its request for payment, all applicable and necessary certified payrolls (for itself and all applicable subcontractors) for the time period covering such payment request. The term "certified payroll" shall include all required documentation to comply with the mandates set forth in Labor Code Section 1720 et seq, as well as any additional documentation requested by the City or its designee including, but not limited to: certified payroll, fringe benefit statements and backup documentation such as monthly benefit statements, employee timecards, copies of wage statements and cancelled checks, proof of training contributions (CAC2 if applicable), and apprenticeship forms such as DAS-140 and DAS-142.
6. In addition to submitting the certified payrolls and related documentation to City, Contractor and all subcontractors shall be required to submit certified payroll records and related documents electronically to the California Department of Industrial Relations. Failure to submit payrolls to the DIR when mandated by the project parameters shall also result in the withholding of progress, retention and/or final payment.
7. No contractor or subcontractor may be listed on a bid proposal for a public works project unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].

8. No contractor or subcontractor may be awarded a contract for public work on a public works project, unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. Contractors MUST be a registered “public works contractor” with the DIR AT THE TIME OF BID. Where the prime contract is less than \$15,000 for maintenance work or less than \$25,000 for construction alternation, demolition or repair work, registration is not required.
9. All contractors/subcontractors and related construction services subject to prevailing wage, including but not limited to: trucking, surveying and inspection work must be registered with the Department of Industrial Relations as a “public works contractor”. Those who fail to register and maintain their status as a public works contractor shall not be permitted to perform work on the project.
10. Should any contractor or subcontractors not be a registered public works contractor and perform work on the project, Contractor agrees to fully indemnify the City for any fines assessed by the California Department of Industrial Relations against the City for such violation, including all staff costs and attorney’s fee relating to such fine.
11. This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

B. AUDIT RIGHTS

All records or documents required to be kept pursuant to this Agreement to verify compliance with this Addendum shall be made available for audit at no cost to City, at any time during regular business hours, upon written request by the City Attorney, City Auditor, City Manager, or a designated representative of any of these officers. Copies of such records or documents shall be provided to City for audit at City Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records or documents shall be made available at Contractor’s address indicated for receipt of notices in this Agreement.

C. ENFORCEMENT

1. City shall withhold any portion of a payment; including the entire payment amount, until certified payroll forms and related documentation are properly submitted, reviewed and found to be in full compliance. In the event that certified payroll forms do not comply with the requirements of Labor Code Section 1720 et seq., City may continue to hold sufficient funds to cover estimated wages and penalties under the Agreement.
2. Based on State funding sources, this project may be subject to special labor compliance requirements of Proposition 84.
3. The City is not obligated to make any payment due to Contractor until Contractor has performed all of its obligations under these provisions. This provision means that City can withhold all or part of a payment to Contractor until all required documentation is submitted. Any payment by the City despite Contractor’s failure to fully perform its obligations under these provisions shall not be deemed to be a waiver of any other term or condition contained in this Agreement or a waiver of the

right to withhold payment for any subsequent breach of this Addendum.

City or the California Department of Industrial Relations may impose penalties upon contractors and subcontractors for failure to comply with prevailing wage requirements. These penalties are up to \$200 per day per worker for each wage violation identified; \$100 per day per worker for failure to provide the required paperwork and documentation requested within a 10-day window; and \$25 per day per worker for any overtime violation.