

PROFESSIONAL SERVICES AGREEMENT

THIS AGREEMENT is made this 27th day of September, 2022, by the **CITY OF GARDEN GROVE**, a municipal corporation, ("CITY") and **A3 Communications, Inc. dba Blue Violet Networks**, hereinafter referred to as "CONTRACTOR".

RECITALS

The following recitals are a substantive part of this Agreement:

1. This Agreement is entered into pursuant to Garden Grove City Council authorization, dated September 27, 2022.
2. The services, equipment and prices provided by Contractor to City are in accordance with the services, equipment and the prices provided by Contractor in its successful public bid to the California Department of General Services Multiple Award Schedule ("CMAS"). Contractor agrees to honor the same pricing schedule Contractor that was originally submitted to the State of California, Department of General Services, for the services outlined in this Agreement. The same pricing schedule was subsequently adopted by the Procurement Division of the State of California's Department of General Services. A copy of the CMAS Master Price Agreement, Contract Number 3-17-84-0052B ("Multiple Award Schedule"), is attached as Attachment B and incorporated herein by reference.
3. CONTRACTOR is qualified by virtue of experience, training, education and expertise to accomplish services.

AGREEMENT

THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Term and Termination.** Except for extended warranties purchased herein, the term of the agreement shall be for period 180 days from full execution of the agreement or until the project has been completed. This agreement may be terminated by the CITY without cause. In such event, the CITY will compensate CONTRACTOR for work performed to date in accordance with Proposal Pricing (Attachment "A"). Contractor is required to present evidence to support performed work completion.
2. **Services to be Provided.** The services to be performed and equipment to be provided by Contractor consist of the purchase, delivery, and installation of a new keycard door entry and security system at the Police Headquarters located at 11301 Acacia Parkway and the Purcell Building located at 11277 Garden Grove Blvd., Garden Grove, CA 92840, per the Proposal which is attached hereto as Attachment "A" and CMAS Master Price Agreement, Contract Number 3-17-

84-0052B which is attached hereto as Attachment "B" and are incorporated herein by reference.

3. **Compensation.** CONTRACTOR shall be compensated as follows:

3.1 **AMOUNT.** Compensation under this agreement shall be the Not to Exceed (NTE) amount of One Hundred Sixteen Thousand Four Hundred Thirteen Dollars and 09/100 (\$116,413.09), in arrears and in accordance with, Proposal Pricing which is attached hereto as Attachment "A" and CMAS Master Price Agreement, Contract Number 3-17-84-0052B which is attached hereto as Attachment "B" and are incorporated herein by reference.

3.2 **Payment.** For work under this Agreement, payment shall be made per invoice for work completed. Within 45 day of delivery of goods or completion of performance of services, CONTRACTOR must promptly render an invoice to CITY or payment may be significantly delayed. For extra work not a part of this Agreement, a written authorization by CITY will be required, and payment shall be based on Proposal Pricing, which is attached hereto as Attachment "A" and CMAS Master Price Agreement, Contract Number 3-17-84-0052B which is attached hereto as Attachment "B" and are incorporated herein by reference.

3.3 **Records of Expenses.** CONTRACTOR shall keep complete and accurate records of all costs and expenses incidental to services covered by this Agreement. These records will be made available at reasonable times to CITY.

3.4 **Termination.** CITY and CONTRACTOR shall have the right to terminate this agreement, without cause, by giving thirty (30) days written notice of termination. If the Agreement is terminated by CITY, then the provisions of paragraph 3 would apply to that portion of the work completed.

4. **Insurance requirements.**

4.1 **COMMENCEMENT OF WORK.** CONTRACTOR shall not commence work under this Agreement until all certificates and endorsements have been received and approved by the CITY. All insurance required by this Agreement shall contain a Statement of Obligation on the part of the carrier to notify the CITY of any material change, cancellation, or termination at least thirty (30) days in advance and provide a Waiver of Subrogation in favor of the City.

4.2 **WORKERS COMPENSATION INSURANCE.** During the duration of this Agreement, CONTRACTOR and all subcontractors shall maintain Workers Compensation Insurance in the amount and type required by law, if applicable

4.3 INSURANCE AMOUNTS. CONTRACTOR shall maintain the following insurance for the duration of this Agreement:

- (a) Commercial general liability, which *includes Cyber Liability*, in an amount of \$1,000,000.00 per occurrence: **claims made and modified occurrence policies are not acceptable**; Insurance companies must be acceptable to CITY/AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY/AGENCY.
- (b) Automobile liability in an amount of \$1,000,000.00 per occurrence. Insurance companies must be acceptable to CITY/AGENCY and have a Best's Guide Rating of A-Class VII or better, as approved by the CITY/AGENCY.

An **On-Going and Completed Operations Additional Insured Endorsement** for the policy under section 4.3 (a) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for liability arising out of work or operations performed by or on behalf of the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

An Additional Insured Endorsement for the policy under section 4.3 (b) shall designate CITY, it's officers, officials, employees, agents, and volunteers as additional insureds for automobiles, owned, leased, hired, or borrowed by the CONTRACTOR. CONTRACTOR shall provide to CITY proof of insurance and endorsement forms that conform to CITY's requirements, as approved by the CITY.

For any claims related to this Agreement, CONTRACTOR's insurance coverage shall be primary insurance as respects CITY, its officers, officials, employees, agents, and volunteers. Any insurance or self-insurance maintained by the CITY, its officers, officials, employees, agents, and volunteers shall be excess of the CONTRACTOR's insurance and shall not contribute with it.

- 5. **Non-Liability of Officials and Employees of the City.** No official or employee of CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.
- 6. **Non-Discrimination.** CONTRACTOR covenants there shall be no discrimination against any person or group due to race, color, creed, religion, sex, marital

status, age, handicap, national origin, or ancestry, in any activity pursuant to this Agreement.

7. **Independent Contractor.** It is agreed to that CONTRACTOR shall act and be an independent contractor and not an agent or employee of the CITY, and shall obtain no rights to any benefits which accrue to CITY'S employees.
8. **Compliance with Law.** CONTRACTOR shall comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local government.
9. **Notices.** All notices shall be personally delivered or mailed to the below listed address, or to such other addresses as may be designated by written notice. These addresses shall be used for delivery of service of process.
 - a. (Contractor)
A3 Communications, Inc. dba Blue Violet Networks
Attention: David Kim, General Manager
17815 Newhope Street, Suite M
Fountain Valley, CA 92708
 - b. (Address of City) (with a copy to):
City of Garden Grove Garden Grove City Attorney
11222 Acacia Parkway 11222 Acacia Parkway
Garden Grove, CA 92840 Garden Grove, CA 92840
10. **CONTRACTOR'S PROPOSAL.** This Agreement shall include CONTRACTOR'S proposal or bid which shall be incorporated herein by reference. In the event of any inconsistency between the terms of the proposal and this Agreement, this Agreement shall govern.
11. **Licenses, Permits, and Fees.** At its sole expense, CONTRACTOR shall obtain a Garden Grove Business License, all permits, and licenses as may be required by this Agreement.
12. **Familiarity with Work.** By executing this Agreement, CONTRACTOR warrants that: (1) it has investigated the work to be performed; (2) it has investigated the site of the work and is aware of all conditions there; and (3) it understands the facilities, difficulties, and restrictions of the work under this Agreement. Should Contractor discover any latent or unknown conditions materially differing from those inherent in the work or as represented by CITY, it shall immediately inform CITY of this and shall not proceed, except at CONTRACTOR'S risk, until written instructions are received from CITY.
13. **Time of Essence.** Time is of the essence in the performance of this Agreement.
14. **Limitations Upon Subcontracting and Assignment.** The experience, knowledge, capability, and reputation of CONTRACTOR, its principals and employees were a substantial inducement for CITY to enter into this Agreement.

CONTRACTOR shall not contract with any other entity to perform the services required without written approval of the CITY. This Agreement may not be assigned voluntarily or by operation of law, without the prior written approval of CITY. If CONTRACTOR is permitted to subcontract any part of this Agreement, CONTRACTOR shall be responsible to CITY for the acts and omissions of its subcontractor as it is for persons directly employed. Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and CITY. All persons engaged in the work will be considered employees of CONTRACTOR. CITY will deal directly with and will make all payments to CONTRACTOR.

15. **Authority to Execute.** The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.
16. **Indemnification.** CONTRACTOR agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses, or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by CONTRACTOR, CONTRACTOR'S agents, officers, employees, subcontractors, or independent contractors hired by CONTRACTOR. The only exception to CONTRACTOR'S responsibility to protect, defend, and hold harmless CITY, is due to the sole negligence of CITY, or any of its elective or appointive boards, officers, agents, or employees.

This hold harmless agreement shall apply to all liability regardless of whether any insurance policies are applicable. The policy limits do not act as a limitation upon the amount of indemnification to be provided by CONTRACTOR.

17. **Prevailing Wages.** The CITY has been advised that the Prevailing Wages Law applies to the work. CONTRACTOR and its subcontractors must be registered with the California Department of Industrial Relations pursuant to Labor Code Section 1725.5. This Agreement shall not be effective until CONTRACTOR provides proof of registration to the CITY. CONTRACTOR shall be responsible for CONTRACTOR's compliance in all respects with the Prevailing Wage Law, including the payment of the prevailing wage rates to all the laborers involved, and with California Labor Code Section 1770 et seq., including the keeping of all records required by the provisions of Labor Code Section 1776 and the implementing administrative regulations. CONTRACTOR shall submit payroll records to the Labor Commissioner pursuant to Labor Code section 1771.4(a)(3) and shall comply with the job site notices posting requirements established by the Labor Commissioner pursuant to Title 8, California Code of Regulations Section 16461(e) or other regulation promulgated pursuant to Labor Code Section 1771.4(a)(2). Pursuant to Labor Code Section 1771.4, this Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations. The CITY shall be a third party

beneficiary of the forgoing covenant with rights to enforce the same as against the CONTRACTOR.

18. **Appropriations.** This Agreement is subject to and contingent upon funds being appropriated therefor by the Garden Grove City Council for each fiscal year covered by the term of this Agreement. If such appropriations are not made, this Agreement shall automatically terminate without penalty to the CITY.

(Agreement Signature Block on Next Page)

IN WITNESS THEREOF, these parties have executed this Agreement on the day and year shown below.

Date: _____

**"CITY"
CITY OF GARDEN GROVE**

By: _____
City Manager

ATTESTED:

City Clerk

Date: _____

**"CONTRACTOR"
A3 Communications, Inc. dba Blue
Violet Networks**

By: _____

Name: _____

Title: _____

Date: _____

Tax ID No. _____

Contractor's License: _____

Expiration Date: _____

If CONTRACTOR is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

APPROVED AS TO FORM:

Garden Grove City Attorney

Date