

CITY OF WILSONVILLE GOODS AND SERVICES CONTRACT

This Goods and Services Contract (“Contract”) for the Bus Station Electronic Signage Project (“Project”) is made and entered into on this ____ day of February 2023 (“Effective Date”) by and between the **City of Wilsonville**, a municipal corporation of the State of Oregon (hereinafter referred to as the “City”), and **Urban Solar, Inc.**, an Oregon corporation (hereinafter referred to as “Contractor”).

RECITALS

WHEREAS, the City requires services which Contractor is capable of providing, under terms and conditions hereinafter described; and

WHEREAS, Contractor represents that Contractor is qualified to perform the services described herein on the basis of specialized experience and technical expertise; and

WHEREAS, Contractor is prepared to provide such services, as the City does hereinafter require.

NOW, THEREFORE, in consideration of these mutual promises and the terms and conditions set forth herein, the parties agree as follows:

AGREEMENT

Section 1. Scope of Work

Contractor will provide and install eReader displays, as more particularly described in the Scope of Work for the Project, attached hereto as **Exhibit A** and incorporated by reference herein (the “Work”).

Section 2. Term

The term of this Contract shall be from the Effective Date until all Work required to be performed hereunder is completed and accepted, or no later than June 30, 2023, whichever occurs first, unless earlier terminated in accordance herewith or an extension of time is agreed to, in writing, by the City. Contractor shall diligently perform the Work according to the requirements identified in the Scope of Work.

Section 3. Contract Sum/Project Scope

3.1. Except as otherwise set forth in this **Section 3**, the City agrees to pay Contractor the unit price not-to-exceed amount of TWO HUNDRED FORTY-EIGHT THOUSAND TWENTY DOLLARS (\$248,020) for performance of the Work (“Contract Sum”). Any compensation in excess of the Contract Sum will require an express written Change Order between the City and Contractor. Contractor’s unit pricing is set forth in **Exhibit B**, attached hereto and incorporated by reference herein.

3.2. Contractor's Contract Sum is all inclusive and includes, but is not limited to, all work-related costs, expenses, salaries or wages, plus fringe benefits and contributions, including payroll taxes, workers compensation insurance, liability insurance, profit, pension benefits, and all other contributions and benefits, technology and/or software charges, licensing, trademark, and/or copyright costs, office expenses, travel expenses, mileage, and all other indirect and overhead charges, including, but not limited to, the recently enacted Oregon Corporate Activity Tax (CAT).

3.3. Contractor will be paid for Work upon completion of the Work and within thirty (30) days of receipt of an itemized invoice, unless the City disputes such invoice. In that instance, the undisputed portion of the invoice will be paid by the City within the above timeframe. The City will set forth its reasons for the disputed claim amount and make good faith efforts to resolve the invoice dispute with Contractor as promptly as is reasonably possible.

Section 4. City's Rights and Responsibilities

4.1. The City will designate a Project Manager to facilitate day-to-day communication between Contractor and the City, including timely receipt and processing of invoices, requests for information, and general coordination of City staff to support the Project.

4.2. Award of this Contract is subject to budget appropriation. Funds are approved for Fiscal Year 2022-23. If not completed within this fiscal year, funds may not be appropriated for the next fiscal year. The City also reserves the right to terminate this Contract early, as described in **Section 13**.

Section 5. City's Project Manager

The City's Project Manager is Eric Loomis. The City shall give Contractor prompt written notice of any re-designation of its Project Manager.

Section 6. Contractor's Project Manager

Contractor's Project Manager is Brianna Kerwin. In the event that Contractor's Project Manager is changed, Contractor shall give the City prompt written notification of such re-designation. Recognizing the need for consistency and knowledge in the administration of the Project, Contractor's Project Manager will not be changed without the written consent of the City, which consent shall not be unreasonably withheld. In the event the City receives any communication from Contractor that is not from Contractor's Project Manager, the City may request verification by Contractor's Project Manager, which verification must be promptly furnished.

Section 7. Subcontractors and Assignments

Unless expressly authorized in writing by the City, pursuant to **Subsection 9.1**, Contractor shall not subcontract with others for any of the Work prescribed herein. Contractor shall not assign any of Contractor's rights acquired hereunder without obtaining prior written approval from the City. Some Work may be performed by persons other than Contractor, provided Contractor advises the City of the names of such subcontractors and the services which they intend to provide, and the City specifically agrees, in writing, to such subcontracting. Contractor acknowledges such services will

be provided to the City pursuant to a subcontract(s) between Contractor and subcontractor(s) and no privity of contract exists between the City and the subcontractor(s). Unless otherwise specifically provided by this Contract, the City incurs no liability to third persons for payment of any compensation provided herein to Contractor. Any attempted assignment of this Contract without the written consent of the City shall be void. Except as otherwise specifically agreed, all costs for services performed by others on behalf of Contractor shall not be subject to additional reimbursement by the City.

Section 8. Contractor Is Independent Contractor

Except as otherwise mandated by state law, the performance of Work under this Contract is at Contractor's sole risk. All damages or loss to Work, equipment, or materials incurred during the performance of the Work shall be at Contractor's sole risk. Contractor is an independent contractor for all purposes and shall be entitled to no compensation other than the Contract Sum provided for under **Section 3** of this Contract. Contractor will be solely responsible for determining the manner and means of accomplishing the end result of Contractor's Work. The City does not have the right to control or interfere with the manner or method of accomplishing said Work. The City, however, will have the right to specify and control the results of Contractor's Work so such Work meets the requirements of the Project.

Section 9. Contractor's Responsibilities

9.1. The City understands and agrees that Contractor may request that some Work be performed on the Project by persons or firms other than Contractor, through a subcontract with Contractor. Contractor acknowledges that if such Work is provided to the City pursuant to a subcontract(s) between Contractor and those who provide such services, Contractor may not utilize any subcontractor(s), or in any way assign its responsibility under this Contract, without first obtaining the express written consent of the City. In all cases, processing and payment of billings from subcontractors is solely the responsibility of Contractor. References to "subcontractor" in this Contract mean a subcontractor at any tier.

9.2. Contractor must comply with all applicable Oregon and federal wage and hour laws. Contractor shall make all required workers compensation and medical care payments on time. Contractor shall be fully responsible for payment of all employee withholdings required by law, including but not limited to taxes, including payroll, income, Social Security (FICA), and Medicaid. Contractor shall also be fully responsible for payment of salaries, benefits, taxes, Industrial Accident Fund contributions, and all other charges on account of any employees. Contractor shall pay to the Department of Revenue all sums withheld from employees pursuant to ORS 316.167.

9.3. Contractor must maintain a City of Wilsonville or Metro business license at all times while performing Work under this Contract.

9.4. No person shall be discriminated against by Contractor or any subcontractor in the performance of this Contract on the basis of sex, gender, race, color, creed, religion, marital status, age, disability, sexual orientation, gender identity, or national origin. Any violation of this provision shall be grounds for cancellation, termination, or suspension of the Contract, in whole or in part, by the City. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to the Contract or to the implementation of the Project. Without limiting

the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to the Contract or the implementation of the Project: (a) all applicable requirements of state civil rights and rehabilitation statutes, rules, and regulations; (b) Titles VI and VII of the Civil Rights Act of 1964, as amended; (c) Sections 503 and 504 of the Rehabilitation Act of 1973, as amended; (d) the Americans with Disabilities Act of 1990, as amended, and ORS 659A.142; (e) Executive Order 11246, as amended; (f) the Health Insurance Portability and Accountability Act of 1996; (g) the Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended; (h) the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended; (i) all regulations and administrative rules established pursuant to the foregoing laws; and (j) all other applicable requirements of federal civil rights and rehabilitation statutes, rules, and regulations.

9.5. Contractor shall make payment promptly, as due, to all parties supplying to such Contractor labor or material for the prosecution of the Work provided for in the Contract.

9.6. Contractor shall make payment promptly, as due, to any party furnishing medical, surgical, hospital, or other needed care and attention, incident to sickness or injury, to the employees of Contractor, of all sums which Contractor agreed to pay or collected or deducted from the wages of employees pursuant to any law, contract, or agreement for the purpose of providing payment for such service.

9.7. With certain exceptions listed below, Contractor shall not require or permit any person to work more than ten (10) hours in any one (1) day, or forty (40) hours in any one (1) week, except in case of necessity, emergency, or where public policy requires it, and in such cases the person shall be paid at least time and a half for:

9.7.1. All overtime in excess of eight (8) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is five (5) consecutive days, Monday through Friday; or

9.7.2. All overtime in excess of ten (10) hours in any one (1) day or forty (40) hours in any one (1) week when the work week is four (4) consecutive days, Monday through Friday; and

9.7.3. All work performed on the days specified in ORS 279B.020(1)(b) for public contracts.

9.8. Contractor must give notice to employees who work on a public contract, in writing, either at the time of hire or before commencement of Work on the Contract, or by posting a notice in a location frequented by employees, of the number of hours per day and days per week that the employees may be required to work.

9.9. The hourly rate of wage to be paid by any Contractor to employed workers or other persons doing or contracting to do all or part of the work contemplated by a public contract shall be not less than the applicable wage required by law.

9.10. Contractor, and all employers working under the Contract, are subject employers under the Oregon Workers Compensation Law and shall comply with ORS 656.017 unless otherwise exempt under ORS 656.126.

9.11. In the performance of this Contract, Contractor shall comply with all applicable federal, state, and local laws and regulations, including but not limited to those dealing with the prevention of environmental pollution and the preservation of natural resources (and avoidance of natural resource damages) in the performance of the Contract, including but not limited to ORS 279C.525. If new or amended statutes, ordinances, or regulations are adopted, or Contractor encounters a condition not referred to in this Contract, not caused by Contractor, and that was not discoverable by reasonable site inspection, which requires compliance with federal, state, or local laws or regulations dealing with the preservation of the environment, both the City and Contractor shall have all the rights and obligations set forth in ORS 279C.525.

9.12. Contractor shall be liable for any fine imposed against Contractor, the City or the 'Project' as a result of a violation of any laws or permitting requirements by Contractor or any suppliers.

Section 10. Indemnity

10.1. Indemnification. Contractor acknowledges responsibility for liability arising out of the performance of this Contract, and shall defend, indemnify, and hold the City harmless from any and all liability, settlements, loss, costs, and expenses in connection with any action, suit, or claim resulting or allegedly resulting from Contractor's negligent acts, omissions, errors, or willful or reckless misconduct pursuant to this Contract, or from Contractor's failure to perform its responsibilities as set forth in this Contract. The review, approval, or acceptance by the City, its Project Manager, or any City employee of documents or other work performed, prepared, or submitted by Contractor shall not be considered a negligent act, error, omission, or willful misconduct on the part of the City, and none of the foregoing shall relieve Contractor of its responsibility to perform in full conformity with the City's requirements, as set forth in this Contract, and to indemnify the City as provided above and to reimburse the City for any and all costs and damages suffered by the City as a result of Contractor's negligent performance of this Contract, failure of performance hereunder, violation of state or federal laws, or failure to adhere to the standards of performance and care described in **Subsection 10.2**. Contractor shall defend the City (using legal counsel reasonably acceptable to the City) against any claim that alleges negligent acts, omissions, errors, or willful or reckless misconduct by Contractor. As used herein, the term "Contractor" applies to Contractor and its own agents, employees, and suppliers, and to all of Contractor's subcontractors, including their agents, employees, and suppliers.

10.2. Standard of Care. In the performance of the Work, Contractor agrees to use at least that degree of care and skill exercised under similar circumstances by reputable members of Contractor's profession practicing in the Portland metropolitan area. Contractor will re-perform any Work not meeting this standard without additional compensation. Contractor's re-performance of any Work, even if done at the City's request, shall not be considered as a limitation or waiver by the City of any other remedies or claims it may have arising out of Contractor's failure to perform in accordance with the applicable standard of care of this Contract and within the prescribed timeframe.

Section 11. Insurance

11.1. Insurance Requirements. Contractor must maintain insurance coverage acceptable to the City in full force and effect throughout the term of this Contract. Such insurance shall cover all risks arising directly or indirectly out of Contractor's activities or work hereunder. Any and all agents or subcontractors with which Contractor contracts for any portion of the Work must have insurance that conforms to the insurance requirements in this Contract. Additionally, if a subcontractor is an engineer, architect, or other professional, Contractor must require the subcontractor to carry Professional Errors and Omissions insurance and must provide to the City proof of such coverage. The amount of insurance carried is in no way a limitation on Contractor's liability hereunder. The policy or policies maintained by Contractor shall provide at least the following minimum limits and coverages at all times during performance of this Contract:

11.1.1. Commercial General Liability Insurance. Contractor and all subcontractors shall obtain, at each of their own expense, and keep in effect during the term of this Contract, comprehensive Commercial General Liability Insurance covering Bodily Injury and Property Damage, written on an "occurrence" form policy. This coverage shall include broad form Contractual Liability insurance for the indemnities provided under this Contract and shall be for the following minimum insurance coverage amounts: The coverage shall be in the amount of **\$2,000,000** for each occurrence and **\$3,000,000** general aggregate and shall include Products-Completed Operations Aggregate in the minimum amount of **\$2,000,000** per occurrence, Fire Damage (any one fire) in the minimum amount of **\$50,000**, and Medical Expense (any one person) in the minimum amount of **\$10,000**. All of the foregoing coverages must be carried and maintained at all times during this Contract.

11.1.2. Business Automobile Liability Insurance. If Contractor or any subcontractors will be using a motor vehicle in the performance of the Work herein, Contractor shall provide the City a certificate indicating that Contractor and its subcontractors have business automobile liability coverage for all owned, hired, and non-owned vehicles. The Combined Single Limit per occurrence shall not be less than **\$2,000,000**.

11.1.3. Workers Compensation Insurance. Contractor, its subcontractors, and all employers providing work, labor, or materials under this Contract that are subject employers under the Oregon Workers Compensation Law shall comply with ORS 656.017, which requires them to provide workers compensation coverage that satisfies Oregon law for all their subject workers under ORS 656.126. Out-of-state employers must provide Oregon workers compensation coverage for their workers who work at a single location within Oregon for more than thirty (30) days in a calendar year. Contractors who perform work without the assistance or labor of any employee need not obtain such coverage. This shall include Employer's Liability Insurance with coverage limits of not less than **\$500,000** each accident.

11.1.4. Insurance Carrier Rating. Coverages provided by Contractor and its subcontractors must be underwritten by an insurance company deemed acceptable by the City, with an AM Best Rating of A or better. The City reserves the right to reject all or any insurance carrier(s) with a financial rating that is unacceptable to the City.

11.1.5. Additional Insured and Termination Endorsements. The City will be named as an additional insured with respect to Contractor's liabilities hereunder in insurance

coverages. Additional Insured coverage under Contractor's Commercial General Liability, Automobile Liability, and Excess Liability Policies, as applicable, will be provided by endorsement. Additional insured coverage shall be for both ongoing operations via ISO Form CG 2010 or its equivalent, and products and completed operations via ISO Form CG 2037 or its equivalent. Coverage shall be Primary and Non-Contributory. Waiver of Subrogation endorsement via ISO Form CG 2404 or its equivalent shall be provided. The following is included as additional insured: "The City of Wilsonville, its elected and appointed officials, officers, agents, employees, and volunteers." An endorsement shall also be provided requiring the insurance carrier to give the City at least thirty (30) days' written notification of any termination or major modification of the insurance policies required hereunder. Contractor must be an additional insured on the insurance policies obtained by its subcontractors performing any of the Work contemplated under this Contract.

11.1.6. Certificates of Insurance. As evidence of the insurance coverage required by this Contract, Contractor shall furnish a Certificate of Insurance to the City. This Contract shall not be effective until the required certificates and the Additional Insured Endorsements have been received and approved by the City. Contractor agrees that it will not terminate or change its coverage during the term of this Contract without giving the City at least thirty (30) days' prior advance notice and Contractor will obtain an endorsement from its insurance carrier, in favor of the City, requiring the carrier to notify the City of any termination or change in insurance coverage, as provided above.

11.2. Primary Coverage. The coverage provided by these policies shall be primary, and any other insurance carried by the City is excess. Contractor shall be responsible for any deductible amounts payable under all policies of insurance. If insurance policies are "Claims Made" policies, Contractor will be required to maintain such policies in full force and effect throughout any warranty period.

Section 12. Warranty

12.1. In addition to, and not in lieu of, any other warranties provided by various manufacturers and suppliers, Contractor fully warrants all Work, materials, and components of the system, including equipment, services and software purchased under this Contract, for a period of three (3) years from the date of Final Acceptance of the Work and shall make all necessary repairs and replacements to remedy, in a manner satisfactory to the City's Project Manager and at no cost to the City, any and all defects, breaks, or failures of the Work or materials occurring within three (3) years following the date of completion due to faulty or inadequate materials or workmanship. Repair of damage or disturbances to other improvements under, within, or adjacent to the Work, whether or not caused by settling, washing, or slipping, when such damage or disturbance is caused, in whole or in part, from activities of Contractor in performing his/her duties and obligations under this Contract, is also covered by the warranty when such defects or damage occur within the warranty period. The three (3) year warranty period shall, with relation to such required repair, be extended three (3) years from the date of completion of such repair.

12.2. Contractor warrants to the City that any materials and equipment furnished under this Contract will be new and of good quality, unless otherwise required or permitted by this Contract, that the Services will be free from defects, and that the Services will conform to the requirements of

this Contract. Services not conforming to these requirements, including substitutions not properly approved and authorized in writing by the City, may be considered defective.

Section 13. Early Termination; Default

13.1. This Contract may be terminated prior to the expiration of the agreed upon terms:

13.1.1. By mutual written consent of the parties;

13.1.2. By the City, for any reason, and within its sole discretion, effective upon delivery of written notice to Contractor by mail or in person; or

13.1.3. By Contractor, effective upon seven (7) days' prior written notice, in the event of substantial failure by the City to perform in accordance with the terms through no fault of Contractor, where such default is not cured within the seven (7) day period by the City. Withholding of disputed payment is not a default by the City.

13.2. If the City terminates this Contract in whole or in part, due to default or failure of Contractor to perform Work in accordance with the Contract, the City may procure, upon reasonable terms and in a reasonable manner, services similar to those so terminated. In addition to any other remedies the City may have, both at law and in equity, for breach of contract, Contractor shall be liable for all costs and damages incurred by the City as a result of the default by Contractor, including, but not limited to all costs incurred by the City in procuring services from others as needed to complete this Contract. This Contract shall be in full force to the extent not terminated by written notice from the City to Contractor. In the event of a default, the City will provide Contractor with written notice of the default and a period of three (3) days to cure the default. If Contractor notifies the City that it cannot, in good faith, do so within the three (3) day cure period provided, then the City may elect, in its sole discretion, to extend the cure period to an agreed upon time period, or the City may elect to terminate this Contract and seek remedies for the default, as provided above.

13.3. If the City terminates this Contract for its own convenience not due to any default by Contractor, payment of Contractor shall be prorated to, and include the day of, termination and shall be in full satisfaction of all claims by Contractor against the City under this Contract.

13.4. Termination under any provision of this **Section 13** shall not affect any right, obligation, or liability of Contractor or the City that accrued prior to such termination. Contractor shall surrender to the City items of work or portions thereof, for which Contractor has received payment or the City has made payment.

Section 14. Contract Modification; Change Orders

Any modification of the provisions of this Contract shall not be enforceable or binding unless reduced to writing and signed by both the City and Contractor.

Section 15. Notices

Any notice required or permitted under this Contract shall be in writing and shall be given when actually delivered in person or forty-eight (48) hours after having been deposited in the United States

mail as certified or registered mail, addressed to the addresses set forth below, or to such other address as one party may indicate by written notice to the other party.

To City: City of Wilsonville
Attn: Eric Loomis, Transit Operations Manager
29799 SW Town Center Loop East
Wilsonville, OR 97070

To Contractor: Urban Solar, Inc.
Attn: Brianna Kerwin
1880 SW Merlo Drive
Beaverton, OR 97003

Section 16. Miscellaneous Provisions

16.1. Integration. This Contract, including all exhibits attached hereto, contains the entire and integrated agreement between the parties and supersedes all prior written or oral discussions, representations, or agreements. In case of conflict among these or any other documents, the provisions of this Contract shall control, and the terms most favorable to the City, within the City's sole discretion, will apply.

16.2. Legal Effect and Assignment. This Contract shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns. This Contract may be enforced by an action at law or in equity.

16.3. No Assignment. Contractor may not assign this Contract, nor delegate the performance of any obligations hereunder, unless agreed to in advance and in writing by the City.

16.4. Adherence to Law. This Contract shall be subject to, and Contractor shall adhere to, all applicable federal, state, and local laws (including the Wilsonville Code and Public Works Standards), including but not limited to laws, rules, regulations, and policies concerning employer and employee relationships, workers compensation, and minimum and prevailing wage requirements. Any certificates, licenses, or permits that Contractor is required by law to obtain or maintain in order to perform the Work described in this Contract shall be obtained and maintained throughout the term of this Contract.

16.5. Governing Law. This Contract shall be construed in accordance with and governed by the laws of the State of Oregon, regardless of any conflicts of laws. All contractual provisions required by ORS Chapters 279A, 279B, 279C, and related Oregon Administrative Rules to be included in public agreements are hereby incorporated by reference and shall become a part of this Contract as if fully set forth herein.

16.6. Jurisdiction. Jurisdiction and venue for any dispute will be in Clackamas County Circuit Court.

16.7. Legal Action/Attorney Fees. If a suit, action, or other proceeding of any nature whatsoever (including any proceeding under the U.S. Bankruptcy Code) is instituted in connection with any controversy arising out of this Contract or to interpret or enforce any rights or obligations

hereunder, the prevailing party shall be entitled to recover attorney, paralegal, accountant, and other expert fees and all other fees, costs, and expenses actually incurred and reasonably necessary in connection therewith, as determined by the court or body at trial or on any appeal or review, in addition to all other amounts provided by law. If the City is required to seek legal assistance to enforce any term of this Contract, such fees shall include all of the above fees, whether or not a proceeding is initiated. Payment of all such fees shall also apply to any administrative proceeding, trial, and/or any appeal or petition for review.

16.8. Nonwaiver. Failure by either party at any time to require performance by the other party of any of the provisions of this Contract shall in no way affect the party's rights hereunder to enforce the same, nor shall any waiver by the party of the breach hereof be held to be a waiver of any succeeding breach or a waiver of this nonwaiver clause.

16.9. Severability. If any provision of this Contract is found to be void or unenforceable to any extent, it is the intent of the parties that the rest of the Contract shall remain in full force and effect, to the greatest extent allowed by law.

16.10. Modification. This Contract may not be modified except by written instrument executed by Contractor and the City.

16.11. Time of the Essence. Time is expressly made of the essence in the performance of this Contract.

16.12. Calculation of Time. Except where the reference is to business days, all periods of time referred to herein shall include Saturdays, Sundays, and legal holidays in the State of Oregon, except that if the last day of any period falls on any Saturday, Sunday, or legal holiday observed by the City, the period shall be extended to include the next day which is not a Saturday, Sunday, or legal holiday. Where the reference is to business days, periods of time referred to herein shall exclude Saturdays, Sundays, and legal holidays observed by the City. Whenever a time period is set forth in days in this Contract, the first day from which the designated period of time begins to run shall not be included.

16.13. Headings. Any titles of the sections of this Contract are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

16.14. Number, Gender and Captions. In construing this Contract, it is understood that, if the context so requires, the singular pronoun shall be taken to mean and include the plural, the masculine, the feminine and the neuter, and that, generally, all grammatical changes shall be made, assumed, and implied to individuals and/or corporations and partnerships. All captions and paragraph headings used herein are intended solely for convenience of reference and shall in no way limit any of the provisions of this Contract.

16.15. Good Faith and Reasonableness. The parties intend that the obligations of good faith and fair dealing apply to this Contract generally and that no negative inferences be drawn by the absence of an explicit obligation to be reasonable in any portion of this Contract. The obligation to be reasonable shall only be negated if arbitrariness is clearly and explicitly permitted as to the specific item in question, such as in the case of where this Contract gives the City "sole discretion" or the City is allowed to make a decision in its "sole judgment."

16.16. Other Necessary Acts. Each party shall execute and deliver to the other all such further instruments and documents as may be reasonably necessary to carry out this Contract in order to provide and secure to the other parties the full and complete enjoyment of rights and privileges hereunder.

16.17. Interpretation. As a further condition of this Contract, the City and Contractor acknowledge that this Contract shall be deemed and construed to have been prepared mutually by each party and it shall be expressly agreed that any uncertainty or ambiguity existing therein shall not be construed against any party. In the event that any party shall take an action, whether judicial or otherwise, to enforce or interpret any of the terms of the contract, the prevailing party shall be entitled to recover from the other party all expenses which it may reasonably incur in taking such action, including attorney fees and costs, whether incurred in a court of law or otherwise.

16.18. Entire Agreement. This Contract, all documents attached to this Contract, and all Contract Documents and laws and regulations incorporated by reference herein represent the entire agreement between the parties.

16.19. Counterparts. This Contract may be executed in one or more counterparts, each of which shall constitute an original Contract but all of which together shall constitute one and the same instrument.

16.20. Authority. Each party signing on behalf of Contractor and the City hereby warrants actual authority to bind their respective party.

The Contractor and the City hereby agree to all provisions of this Contract.

CONTRACTOR:

URBAN SOLAR, INC.

By: _____

Print Name: _____

As Its: _____

Employer I.D. No. _____

CITY:

CITY OF WILSONVILLE

By: _____

Print Name: _____

As Its: _____

APPROVED AS TO FORM:

Amanda Guile-Hinman, City Attorney
City of Wilsonville, Oregon

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SCOPE OF SERVICES AND TECHNICAL SPECIFICATIONS

Contractor is required to complete the following tasks before system acceptance:

Task 1: Electronic Signage System Design

Contractor is responsible for procuring, installing, configuring, and testing all hardware and software required. The system must be compatible with all future revisions and software/hardware versions for the entire life of this Contract. Any upgrades or patching required to bring newer hardware or software into production must be included as part of the entire Contract life.

All communication between display signage system equipment must be through the main AVL server location, using a hub and spoke design.

Task 1.1: Displayed Content and Information

Contractor will cover production, delivery, and provision of displays on signage as follows:

- SMART GMV real-time schedule information will be displayed for station specific information (SMART and GMV will provide the information to Contractor).
- Service alerts through GMV GTFS Realtime will be displayed for station specific information.
- Custom marketing branding options must be displayed throughout all electronic displays.
- Ability for SMART staff to remote access the display signs and add content via the internet.
- ADA requirements must be met for video and sound.

Task 1.2: Technical Specifications

Contractor will be responsible for installing the electronic display signage. The weight and dimensions of the display signs shall allow mounting on existing station poles or in existing bus stations, without structural changes to the poles/weather shelters. If additional structural construction is needed, Contractor is responsible for obtaining required building permits. Upon field installation of displays, Contractor will be responsible for finalizing electronic display signage configuration, testing all electronic display signage system hardware components and sub-components, and ensuring interfaces are working properly. **Appendix A** gives specifications for each of the 21 bus stations.

Minimum technical specifications for Electronic Display Signs and associated hardware follows:

Electronic Display

- Display size of approximately 13 inches;
- Display information should meet all ADA requirements;
- Fully configurable visible area, including the presentation of multiple departures of multiple routes;
- Viewing angle of at least 175 degrees;
- Passenger occupancy where data is available;
- Push buttons on or connected to display to interact with content;
 - i.e. multi-page toggle, audible ADA callouts;
- Readability in direct sunlight and in all conditions at a distance of up to 10 feet; and
- Operate in the following environmental conditions:
 - temperatures between 0°F to 120°F;
 - Rain, snow, cloud cover, fog, etc.

Mounting Hardware

- Display shall allow for mounting on existing poles/structures, or integration into existing shelters;
- Tamper-proof fasteners are required for attaching display to the station facility;
- The display shall be designed to receive and transmit data via available mobile networks; and
- Contractor shall manage all coordination with the mobile network.

Power Supply

- Display units shall operate on solar power, battery power, and or a combination of both;
 - Specifications of size, type, power output are required;
 - Power sources, casings, and connections must comply with all state and federal guidelines;
- Power supply shall work continuously for at least three (3) years without replacement; and
- Power supplies and connecting hardware external from the display unit shall be in tamper-proof casing or use tamper-proof fasteners with proven durability.

System Software

- The user interface shall be implemented as a web-based application with a graphical user interface;
- The user interface shall support different levels of authorization;
- The user interface shall allow assigning a display to a station point;
- The user interface shall enable a user to configure, control, and monitor displays via the central server;
- The user interface shall allow addressing individual displays, groups of displays, and/or all displays;
- The content management system shall enable a user to upload images, create playlists and schedule content; and
- The user interface shall allow addressing individual displays with playlists and schedules.

Monitoring System

The status reports from the displays to the central server must allow monitoring and error logging. At least the following information/status of the display shall be conveyed in a status report:

- Display ID
- Time
- Display OK
- Internal error
- Configuration fault
- TTS module error
- Display module error
- Battery voltage/power %
- Software Version
- Last departure update
- Reception field strength
- Transmission error
- Temperature of the display

Task 2: Electronic Display Software Installation

Contractor shall grant SMART the right to use all software and firmware provided under this Contract and will not impose any licensing restrictions on interfacing data to or from the electronic display system software. SMART shall be the owner of all software data. Contractor shall provide for hosting of the content management software as described within technical specifications for the software. Hosting services, monthly service fees, maintenance, and licensing for the software shall be provided for the duration of the warranty period for all electronic signage system software. SMART shall have the option to extend the duration of software hosting beyond the system warranty period, to be negotiated with system Contractor at future periods.

Task 3: Electronic Display System Integration with AVL System

Contractor shall be responsible for completing the integration of the electronic signage system with the SMART AVL system for receiving real-time transit information, and shall serve as systems integrator for all components and interfaces (internal and external). SMART's Contractor for AVL/CAD systems is GMV. Contractor will be required to work with GMV to integrate all customer facing real-time information.

Successful completion of Electronic Signage/CMS integration shall be achieved upon the successful completion of the thirty (30) day System Acceptance Testing period, as defined in the following section.

Task 4: System Acceptance Testing

All materials furnished and all work performed under this specification shall be inspected and tested. Should any inspections or tests indicate that specific hardware, software, or documentation does not meet the specification requirement; the appropriate items shall be replaced, repaired, upgraded, or added by Contractor as appropriate to correct the noted deficiencies, at no cost to SMART. Contractor will be required to submit a test plan and procedures for each of the following types of tests. The following information must be included in each Acceptance Test Plan:

- Test schedule;
- Identification of all tests to be performed, the purpose of each test and the identification of the functional requirement(s) being tested;
- Identification of hardware and software to be tested;
- Description of test procedures;
- Description of measures of effectiveness or pass/fail criteria;
- Description of the methods and equipment used to record the test and test results;
- Description of the corrective actions and re-testing procedures; and
- Identification of special testing conditions.

All test plans and test procedures must be submitted to SMART for approval. SMART reserves the right to witness any or all tests, without charge, and may include a check for compliance with all requirements set forth in this Scope and the Contract. Contractor will provide reasonable advance notification to SMART of all tests, but not less than five (5) business days.

Task 4.1: Proposed System Acceptance Testing

A thirty (30) day Acceptance Testing period shall commence when the following minimum conditions are met:

- Contractor's proposed Acceptance Test Plan shall have been received, reviewed, and approved by SMART;

- Contractor's proposed date for commencement of Acceptance Testing shall be compatible with the schedules of SMART staff who will be directly involved in such monitoring and testing;
- All fixed-end hardware and system software shall be fully installed and operating without problem for a minimum of seven (7) business days.

Contractor shall certify, and SMART shall have reason to believe, that all equipment is installed and operating without problem, and that any equipment not passing the test shall be no more than marginally greater in number than that which should be expected during normal operation of the system after acceptance. SMART expects, when notified by Contractor that the system is ready for testing, the acceptance testing shall commence and will be completed with a "punch" list for error correction. SMART shall designate an organization to perform one (1) set of full acceptance testing for this Project. In the event that more than one (1) set of acceptance tests is necessary due to the failure on the part of Contractor, SMART reserves the right to require Contractor to reimburse SMART for such costs.

Task 4.2: Final System Acceptance Testing

A thirty (30) day Acceptance Testing period shall commence when the following minimum conditions are met:

- Contractor's proposed Final System Acceptance Checklist shall have been received, reviewed, and approved by SMART;
- Contractor's proposed date for commencement of acceptance testing shall be compatible with the schedules of SMART staff who will be directly involved in such monitoring and testing;
- All fixed-end hardware and system software shall be fully installed and operating without problem for a minimum of five (5) business days.

Contractor shall certify, and SMART shall have reason to believe, that all equipment is installed and operating without problem, and that any equipment not passing the test shall be no more than marginally greater in number than that which should be expected during normal operation of the system after acceptance.

SMART expects, when notified by Contractor that the system is ready for testing, the acceptance testing shall commence and will be completed with a checklist for error correction.

The final written acceptance of the system shall be granted upon successful completion of all Work, in addition to the successful completion of the integration system tests that Contractor shall be required to develop and provide to SMART. The integration system tests shall be subject to the approval of SMART and shall include, as a minimum, the following:

- Functional tests to ensure hardware and software compatibility. Procedures for these tests shall include descriptions of all functions and the steps taken to demonstrate each.
- Hardware and/or software tests to provide proof of performance for all equipment furnished to ensure that the functional and technical requirements of the various units and subsystems have been met.

System availability tests to ensure that the actual availability is sufficient to not impede operational functions. Contractor shall guarantee a favorable failure rate for all equipment such that, on average over any three (3) month period, less than two (2) electronic displays will experience a failure. A failure shall be defined as a malfunction of Contractor-supplied equipment resulting from component failure in said equipment under normal operating conditions. Maintenance records kept and certified by Contractor, and provided to SMART during a one hundred twenty (120) day test period shall determine

this. SMART reserves the right to audit and inspect such records, or allow its designee to do it, as the agency deems necessary. If the required reliability cannot be demonstrated during this period, Contractor will have sixty (60) days to rectify the problem. Such records shall be submitted in an agreed-upon electronic format.

If any particular component within any of the equipment furnished has a failure rate of 10% or greater during the twelve (12) month period of the original warranty period, that component or components shall be considered to have failed 100% in all units and Contractor shall either remove and replace all such items or make appropriate modifications to eliminate the cause of the failures, all without additional cost or disruptions to normal daily operations to SMART.

Task 5: Electronic Display Signage System Training

Contractor shall provide a comprehensive training program that enables SMART staff to operate and maintain the system. The training plan shall assume training for SMART administrative staff and maintenance personnel. Training topics shall include:

- Electronic display signage training;
- Hardware training (maintenance and troubleshooting);
- System administration training, including third-party interfaces (i.e. GTFS data feed).

Contractor shall provide a detailed training plan in conjunction with the overall project schedule. The plan will provide a description and duration of each course. All training will be conducted onsite at SMART's facility or through a virtual meeting platform.

Additional training shall be provided by Contractor at no cost to SMART under the following circumstances:

- Major modifications to the software and/or hardware made after the initial training due to system(s) defect(s) and/or upgrade(s) within two (2) years of installations; and
- Delays in systems deployment after initial training for which Contractor is responsible.

Task 6: Electronic Display Signage System Warranty

Contractor will provide a three (3) year service and warranty policy on all components of the system, including equipment, services, and software purchased. The warranty period will begin following final system acceptance by SMART. SMART reserves the right to approve or reject the service facility specified by Contractors.

Contractor shall provide a single point of contact for all warranty administration during the warranty period.

Contractor shall provide any software updates and patches for the current version at no cost to SMART during the warranty and support period.

Future upgrades to the software system will be made available to SMART at no additional charge during the warranty and support period.

If there is a change in the production configuration of any equipment or software being installed prior to installation completion, SMART may require that all previously installed equipment and software be upgraded to match the updated configuration.

Ongoing Support and Maintenance –Contractor shall provide ongoing user and technical support for a period of three (3) years as part of the warranty period.

Task 6.1: Repair or Replacement of Faulty Components

During the warranty period, Contractor shall repair or replace any faulty components, with the cost included in the warranty price.

If at least 25% of a given component requires repair or replacement within the three (3) year warranty period, the component shall be deemed to warrant system-wide replacement. System wide replacement shall require Contractor to replace all units of the suspect component throughout the system, whether or not they have exhibited any fault. Even if the system-wide replacement activity extends beyond the warranty period, Contractor shall be obligated to complete the system-wide replacement if the need was documented before the end of the warranty period. Software support during the warranty period shall include technical support for all hardware and software, with a technical support line, as well as providing, licensing, installing, and integrating all released software patches and updates.

Task 6.2: System Failure Response Times

Contractor shall provide 24/7 support when needed in case of severe emergencies. Contractor shall respond to issues in a timely fashion. Contractor is deemed to have responded when it has replied to the City's initial request. This may be in the form of an email, help desk ticket, or a telephone call to either provide a solution or request further information.

Guaranteed response times depend on the severity of the issue and apply during the City's working hours only. Guaranteed response times are shown in Table 1.

Severity Level	Response Time
Fatal	90 Minutes
Severe	120 Minutes
Medium	1 day
Minor	3 days

The severity levels shown in Table 1 are defined below and refer to all mode types.

- **Fatal:** Complete degradation (>50% System Failure) — all users and critical functions affected. Item or service completely unavailable, including but not limited to:
 - The central software system is unreachable by City users.
 - The central software system is accessible, but there is no telematics data being presented to the user.
- **Severe:** Significant degradation (20% - 49% System Failure) — large percentage of users or critical functions affected, including but not limited to:
 - Electronic displays not connecting to server, displays not updating properly, loss of power to hardware, software system is inaccessible for majority of users.
- **Medium:** Limited degradation (10% - 19% System Failure) — limited number of users or non-critical functions affected. Business processes can continue. These may include but are not limited to the following:
 - Non-functioning electronic display; and

- Non-functioning central system software.
- **Minor:** Small degradation (<10% System Failure) —one user affected. Business processes can continue.
 - Any software/hardware defect that does not drastically impact critical business functions.

MARKETING & BRANDING

The City requires electronic displays and software to allow for custom branding options to be displayed throughout all electronic displays.

APPENDIX A

Bus Station Specifications

	Stop ID	Location Description	Sign Mount	Shelter	Bench Type	Latitude	Longitude
1	2543	Wilsonville High School WB	Surface	Tolar MFG	Within Shelter	45.30723	-122.74941
2	2696	Old Town Square - Fred Meyer	None	None	None	45.30138	-122.77141
3	2613	Community Center / City Hall	Direct Bury	None	None	45.30413	-122.75960
4	2605	Bailey St - Subaru Dealership	Direct Bury	None	None	45.29986	-122.77116
5	2627	Town Center Park at Courtside Dr.	Surface	None	Pole Bench	45.30578	-122.76266
6	2460	Rain Garden Apts.	None	None	None	45.30881	-122.79426
7	1000	Canby Transit Center	Surface	Other	Within Shelter	45.26316	-122.69172
8	2695	Town Center Shopping - Safeway	None	None	None	45.30443	-122.76312
9	2409	Wilsonville Rd at Brown Rd EB	Direct Bury	OCE	Within Shelter	45.30213	-122.78609
10	2438	Wood Middle School	Direct Bury	OCE	Within Shelter	45.29988	-122.79038
11	2641	Goodwill at Courtside Dr.	Surface	None	Pole Bench	45.30563	-122.76338
12	2498	29911 Boones Ferry Rd - Route 4	Surface	None	Pole Bench	45.30369	-122.77199
13	2655	Boones Ferry Rd - Fred Meyer	Surface	CEC	Within Shelter	45.30092	-122.77322
14	2482	Renaissance Court Apts.	None	None	None	45.30959	-122.79601
15	2080	Meridian Creek Middle School	Surface	CEC	Within Shelter	45.31551	-122.74008
16	2465	Charleston Apts.	None	None	None	45.31083	-122.79633
17	2256	Town Center Park at Parkway Ct NB	Direct Bury	Custom	Within Shelter	45.30666	-122.76423
18	2351	Argyle Square NE at Elligsen Rd SB	Direct Bury	CEC	Within Shelter	45.33541	-122.76363
19	2040	Wilsonville Rd at Graham Oaks Nature Park	Direct Bury	Custom	Within Shelter	45.29706	-122.79822
20	2359	Canyon Creek Rd at Canyon Creek Apts. SB	Direct Bury	CEC	Within Shelter	45.32921	-122.75728
21	2673	10100 Block SW Commerce Cir - Connect to TriMet 96	Direct Bury	None	Pole Bench	45.33519	-122.77552

Shelter Manufacture Key

- OCE Oregon Correction Enterprise
- CEC Columbia Equipment Company

Sign Mount Key

- Surface Mounted in or on concrete
- Direct Bury Mounted in soil
- None No sign pole mounted

10.1 Base Proposal

Line-Item Description	Units	Unit Cost	Total Cost
13" Axentia E-Paper Display Includes all mounting hardware, text-to-speech audio announcements, 3 years of cellular service and 3 years of software licenses and a 3 year extended product warranty	21	\$6,666.67	\$140,000
Project Implementation and Training	1	\$28,089.89	\$28,089.89
Installation of Signs	21	\$1,010.64	\$21,223.47
Installation of Poles	5	\$998.75	\$4,993.76
Shipping and Handling	1	\$5,617.98	\$5,617.98
TOTAL			\$199,925.09

10.2 Options Available to SMART

Line-Item Description	Units	Unit Cost	Total Cost
Spare 13" Axentia E-Paper Displays (optional but strongly recommended)	2	\$6,666.67	\$13,333.34
PV Stop + Pole Mounted Security Downlight	13	\$1,530	\$19,890