

**ANNUAL REQUIREMENTS CONTRACT FOR GENERAL SERVICES
250160-ET PARKING METER AND MERCHANT PROCESSING SERVICES**

THIS Annual Requirements Contract for General Services is being entered into, effective as of _____, by and between the City of Las Vegas (hereinafter the "City"), a municipal corporation within the State of Nevada having its principal office at 495 South Main Street, Las Vegas, Nevada 89101, and Parkeon, (hereinafter the "Company"), having Its principal office at 40 Twosome Drive, Suite 7, Moorestown, NJ 08057

SECTION A – CONTRACT OVERVIEW**A-1 Summary of Contract [CAO-12/30/2020]**

- (a) This Contract sets forth the terms and conditions for ordering and performance of the Services described herein, and the execution hereof by the parties hereto forms a legally binding contract. The City may order, and the Company is obligated to perform, the Services in accordance with the terms and conditions of this Contract. This is a non-exclusive contract.
- (b) This Contract covers the City's estimated need for the Services on an annual basis. At the time of execution of this Contract, precise service levels cannot be fixed but will vary based on the City's annual needs, and the Contract is therefore based on the City's past annual usages. Notwithstanding the execution of this Contract, the City is under no obligation to order or maintain any minimum or maximum level of service under this Contract.

Contract Synopsis The services to be procured are more fully defined in Section C	This Contract covers the need of the City to purchase the products and services of Multi-space parking meters.		
Performance Dates The Performance Period is more fully defined in Section A-2	Award Date See first paragraph	Expiration Date 3 years from award date	Option Periods Five (5) one-year periods
Contract Type	The contract type is Annual Requirements.		
Contract Amount	\$ 800,000	Estimated Annual Amount	

Contract Exhibits / Attachments The following documents are hereby incorporated into this Contract
Exhibit A - Scope of Work Exhibit B - Pricing

City Representative: All routine Company inquiries should be directed to the person identified by the City on the Purchase Order per Section D-5			
Company Representative Per Section D-5	Name Benoit Reliquet	Phone 856-234-8000	Email benoit.reliquet@flowbird.group

City Legal Notice Representative per Section E-1			
Company Legal Notice Representative Per Section E-1	Name & Title Benoit Reliquet, President NAM	Address 40 Twosome Dr, Ste 7 Moorestown, NJ 08057, United States	Email Benoit.reliquet@flowbird.group

A-2 Performance Period [CAO-12/30/2020]

- (a) The City may place orders against this Contract from the Award Date through and including the Expiration Date, unless extended in writing.
- (b) The City may, at its sole discretion, exercise the option to renew the contract for the periods set forth above (if any). The City shall provide written notice to the Company of any such renewal (if any), and the Company may not assume an automatic renewal. Exercise of an option does not commit the City to exercise further options.
- (c) The City reserves the right to exercise an option to temporarily extend this Contract for up to one hundred eighty (180) calendar days from the Expiration Date, for any reason.

SECTION B – DEFINITIONS**B-1 Definitions [CAO-01/20/2016]**

The following definitions apply to this Contract:

- (a) **Award Date:** The date that a Contract becomes effective. It is the date entered into the first paragraph of the Contract upon execution by an authorized representative of the City.
- (b) **Contract:** This document, consisting of Sections A through E and the Exhibits and Attachments attached hereto, which is binding and effective only upon execution by the City.
- (c) **Contract Amount:** The maximum amount of compensation that may be paid to the Company for performance of the Contract, which includes, without limitation, compensation for all direct and indirect expenses.
- (d) **Prompt Payment Discount:** The price discount offered by the Company which applies to the purchase price of the Services if the City elects to pay an invoice in less than its normal thirty (30) day payment cycle time.
- (e) **Purchase Order (or P.O.):** The administrative document issued by the City to facilitate the ordering of and payment for the Services purchased pursuant to this Contract.
- (f) **Services:** The work to be performed by the Company, which is listed or described in Section C, "Scope of Work" and "Exhibit B – Supplier Response", attached hereto.

SECTION C – SCOPE OF WORK

C-1 Scope of Work is set forth in "Exhibit A".

SECTION D - SPECIAL CONDITIONS**D-1 Pricing and Payment [CAO-4/2020]**

- (a) Payment to the Company will be made only for the actual Services performed and accepted by the City, upon receipt of an invoice submitted in accordance with Section D-3, "Invoices".
- (b) The City will pay the Company in accordance with the pricing set forth in "Exhibit B" to this Contract.
- (c) The prices set forth herein include the costs and expenses associated with providing and performing the Services for the City including, without limitation, expenses for inspection, meeting warranty requirements and complying with all the terms and conditions of this Contract.

D-2 Pricing Revisions [CAO-4/2020]

After the initial term of this Contract, the Company shall have the right to increase costs annually in accordance with the cumulative change in the Consumer Price Index; provided that such increase shall not exceed 3% in any year. The parties shall reference the latest 12-month percent change for the West Region, as measured by the Consumer Price Index for All Urban Consumers (CPI-U) for All Items.

D-3 Invoices [CAO-9/2020]

- (a) Invoice Instructions for parking meters, ancillary parts, upgrades, support & maintenance: The Company will submit a detailed invoice to the city upon delivery and acceptance of goods and services
- (b) Invoice Instructions for meter merchant processing services: The Company will submit a monthly invoice and will provide to the City Project Manager supporting transaction records in accordance with "Exhibit 8- Pricing."

Each invoice shall contain the following information:

- (i) the date of the invoice and invoice number;
- (ii) the Purchase Order number;
- (iii) the Contract Item against which charges are made; and
- (iv) the performance dates covered by the invoice.

Upon reconciliation of all errors, corrections, credits, and disputes, payment to the Company will be made in full within thirty (30) calendar days. **Invoices received without a valid Purchase Order number will be returned unpaid.** The City shall also not be liable for any errors or omissions in an invoice once said invoice is paid by the City, all of which shall be expressly waived by Company. Notwithstanding the foregoing, this paragraph shall in no way waive the City's rights and remedies should the City find any errors or omissions in an invoice before or after said invoice is paid by the City.

The Company shall submit the original invoice to:

Department of Finance
ATTN: Accounts Payable
City of Las Vegas
495 South Main Street, 4th Floor
Las Vegas, NV 89101-2986

- (c) A duplicate copy of the invoice is to be sent to the City's designated representative on the Purchase Order per Section D-5.
- (d) The Prompt Payment Discount listed in "Exhibit B" will apply.
- (e) The City may subtract or offset from any unpaid invoice from the Company any claims, which the City may have incurred for failure of the Company to comply with the terms, conditions or covenants of this Contract, or any damages, costs and expenses caused by, resulting from, or arising out of the negligent act or omission of the Company in the performance of the services under this Contract. Within ten (10) calendar days, the City shall provide a written statement to the Company of the off-set which has been subtracted from any payment to the Company along with appropriate documentation and receipts, if any, and a description of the failure, error or deficiency attributed to the Company. The Company may dispute the right or amount of the off-set made by the City by providing written notification to the City within ten (10) calendar days after receipt of the City's written notice. The City shall provide a written response to the Company within ten (10) calendar days of receipt of the Company's written dispute notice. If the Company disputes the City's determination, the Company may file a claim pursuant to Section E-2, "Disputes" of this Contract.

D-4 Performance Requirements [CAO-08/22/2019]

- (a) Service Coordination. The Company shall provide the City with twenty-four (24) hour notice prior to performance of the Services. All performance of Services must be coordinated with the City's designated representative on the Purchase Order per Section D-5.
- (b) The City reserves the right to refuse service if advance notice is not given.
- (c) Performance Schedule. The Company shall commence performance under the Contract after the Award Date or Notice to Proceed. The maximum time to complete performance is after receipt of a Purchase Order. Failure to meet the performance time specified shall constitute a breach of contract.

- (d) Failure to Perform. In the event that the Company fails to perform the Services, the City shall notify the Company in writing and provide Company with a period to perform, which shall be agreed upon between the Parties. If the Company fails to perform within the agreed upon period, in accordance with the terms and conditions of the Contract, the City shall have the option to either terminate the Contract or procure the Services from another supplier. If the Services are procured from another supplier, the Company shall pay the City any difference between the Contract price(s) and the price(s) paid to the other supplier plus any and all administrative costs incurred associated with the re-procurement.
- (e) Additional Service Requirements.
 - (i) The Company shall comply with the following special requirements and instructions: N/A
 - (ii) The Company shall perform the following ancillary services, in accordance with the schedule set forth below:
none.
- (f) Inspection and Acceptance. The Services will be inspected at time of performance by an authorized representative of the City for compliance with the specifications, workmanship, appearance, and conformance to all other requirements of this Contract. In the event deficiencies are detected, the Services will be rejected to enable the Company to make the necessary repairs, adjustments or replacements. Payment will not be made and discount period (if applicable) will not commence until the corrective action is complete and the Services have been re-inspected and accepted by the City.

D-5 City/Company Representative [CAO-08/22/2019]

- (a) All routine Company inquiries should be directed to the person identified by the City on the Purchase Order.
- (b) The Company Representative for this Contract is named in Section A-1 (e). The Company Representative shall have full authority to act for the Company on all matters arising under or relating to this Contract until written notice to the City is provided by the Company of any change in the person acting in this capacity.

D-6 Insurance [CAO-3/31/2022]

The Company shall procure and maintain, at its own expense, during the entire term of the Contract, the following coverage(s):

- (i) Industrial/Workers' Compensation Insurance protecting the Company and the City from potential Company employee claims based upon job-related sickness, injury, or accident, during performance of this Contract, and must submit proof of such insurance on a certificate of insurance issued by an insurer qualified to underwrite workers' compensation insurance in the State of Nevada, in accordance with NRS 616A-616D, inclusive. If Company is a sole proprietor, it will be required to submit an affidavit indicating that the Company has elected not to be included in the terms, conditions and provisions of NRS 616A-616D, inclusive, and is otherwise in compliance with those terms, conditions and provisions. The Company's Workers' Compensation policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas.
- (ii) Commercial General Liability Insurance (bodily injury, property damage) with respect to the Company's agents assigned to the activities performed under this Contract in a policy limit of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, for bodily injury, products, completed operations, personal injury and property damages. Such coverage shall be on an "occurrence" basis and not on a "claims made" basis, and be provided on either a Commercial General Liability or a Broad Form Comprehensive General Liability (including a Broad form CGL endorsement) insurance form. The form must be written on an ISO Form CG 00 01 10 01, or an equivalent form. The Company's General Liability policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas, and shall be endorsed to include the City, its officers, and employees as additional insured.
- (iii) Commercial Automobile Liability Insurance of limits no less than \$1,000,000 combined single limit per occurrence for bodily injury and property damage to include, but not be limited to, coverage against all insurance claims for injuries to persons or damages to property which may arise from services rendered by Company and any auto used in the performance of services under this Contract. The policy must insure all vehicles **owned** by the Company and include coverage for **hired** and **non-owned** vehicles. If the services requested do not require the use of the vehicle to perform, the Commercial Automobile Liability Insurance requirements as described in this paragraph do not apply. The Company's Automobile Liability policy shall have a waiver of subrogation endorsement in favor of the City of Las Vegas, and shall be endorsed to include the City, its officers, and employees as additional insured.

- (iv) Professional Liability Insurance (Errors and Omissions Coverage) protecting the Company from claims arising out of performance of professional services caused by a negligent act, error, or omission for which the insured is legally liable. Such coverage shall be in a minimum amount of \$1,000,000, combined single limit and in the aggregate, for the period of time covered by this Contract. If coverage is on a "claims made" basis, then it must continue for a period of two years beyond the completion or termination of this Contract. Any retroactive coverage must coincide with or predate the beginning of this Contract and may not be changed without the consent of the City.
 - (v) The Company shall also maintain coverage for cyber liability, network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Company's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public Data – including but not limited to, confidential or medical or private/personal identifiable information, transmission of a computer virus, or denial of service. Coverage shall be sufficiently broad to respond to the duties and obligations as is undertaken by Company in this Contract and shall include, but not be limited to, claims involving infringement of intellectual property, including but not limited to infringement of copyright, trademark, trade dress, invasion of privacy violations, information theft, damage to or destruction of electronic information, release of private information, alteration of electronic information, extortion and network security. The policy shall provide coverage for breach response costs as well as regulatory fines and penalties as well as credit monitoring expenses with limits sufficient to respond to these obligations. Such coverage shall be in a minimum amount of \$2,000,000, combined single limit and in the aggregate, for the period of time covered by this Contract.
- 1) The Company must provide compliant certificates of insurance and required endorsements to the City or its designated certificate tracking service immediately upon request. The Company shall maintain coverage for the duration of this Contract, and any renewal periods if applicable. The Company shall annually provide the City's designated certificate tracking service with a certificate of insurance and endorsements as evidence that all insurance requirements have been met. A certified, true, and exact copy of each of the project specific insurance policies (including renewal policies) required under this Section shall be provided to the City or it's designated certificate tracking service if so requested.
 - 2) All required aggregate limits must be disclosed and amounts entered on the certificate(s) of insurance. The certificates must identify the Contract number, the Contract description, and for internal City routing purposes only the name of the appropriate City division/department. The Company and/or insurance carrier shall provide the City with a 30-day advance notice of policy modification, cancellation, or erosion of insurance limits, sent by certified mail "return receipt requested".
 - 3) The certificates and endorsements for each insurance policy are to be signed by a person authorized by that insurer and licensed by the State of Nevada. Each insurance carrier's rating as shown in the latest Best's Key Rating Guide shall be fully disclosed and entered on the required certificate of insurance. The City requires insurance carriers to maintain a Best's Key minimum rating of A- VII, A- VIII, A- IX, A- X, or higher. The adequacy of the insurance supplied by the Company, including the rating and financial health of each insurance carrier providing coverage, is subject to the approval of the City.
 - 4) All deductibles and self-insurance retentions shall be fully disclosed in the certificate of insurance. No deductible or self-insured retention may exceed \$25,000 without the prior written approval of the City.
 - 5) **Companies requesting increased deductibles or self-insured retentions must provide the City a written request stating the desired amounts along with recent audited financial statements for review. The City will review the request and determine if the requested deductibles or self-insured retentions are acceptable. In the event the request for increased deductibles or self-insured retentions is denied, the Company is obligated to provide the deductibles or self-insured retentions established in the Contract at no additional expense to the City.**
 - 6) If the Company fails to carry the required insurance, the City may (i) order the Company to stop further performance hereunder, declare the Company in breach, pursuant to Section E-5, "Event of Default", terminate the Contract if the breach is not remedied and, if permitted, assess liquidated damages, or (ii) purchase replacement insurance and withhold the costs or premium payments made from the payments due to the Company or charge the replacement insurance costs back to the Company.
 - 7) Any subcontractor or subconsultant approved by the City shall be required to procure, maintain, and submit proof of insurance to the City of the same insurance requirements as specified above, and as required in this paragraph.
 - 8) The Company is encouraged to purchase any additional insurance it deems necessary.

- 9) The Company is required to remedy all injuries to persons and damage or loss to any property of the City caused in whole or in part by the Company, its subcontractors or anyone employed, directed, or supervised by the Company.

D-7 Warranty [CAO-3/31/2022]

- (a) Company's Warranty. Company warrants that the Services shall be performed in full conformity with this Contract, with the professional skill and care that would be exercised by those who perform similar services in the commercial marketplace, and in accordance with accepted industry practice. In the event of a breach of this warranty, or in the event of non-performance or failure of the Company to perform the services in accordance with this Contract, the Company shall, at no cost to the City, re-perform or perform the services so that the services conform to the warranty. The Company warrants that the Goods supplied to the City are (i) free of defects and deficiencies in design, workmanship and materials, (ii) suitable for the purpose intended by the City, (iii) in compliance with the applicable specifications, and (iv) free from any liens or encumbrances on title of the Goods. Notwithstanding the aforementioned, this warranty shall remain in effect as long as the City has not modified the Goods, has properly maintained them, and no damage has occurred (e.g., vandalism). This warranty expressly excludes consumable items, including but not limited to batteries, fuses and other parts subject to normal wear and tear.

The Company warrants that the Services and Deliverables will be free of harmful code such as viruses, Trojan horses, worms, time bombs, disabling code, malware, or other harmful computer code, file or program (including without limitation password guessing programs, decoders, password gatherers, keystroke loggers, cracking tools, and/or encryption circumvention programs).

- (b) Manufacturer's Warranty The manufacturer's standard warranty for the Goods, if applicable, applies in its entirety
- (c) Warranty Exclusions Prohibited The City will not accept any warranty clause from the Company or manufacturer which states (i) the warranty of merchantability and/or the warranty of fitness for a particular purpose are not applicable to, excluded from, the purchase of the Goods, or (ii) the Company's and/or manufacturer's warranty clause is in lieu of all other warranties that are either expressed or implied. In addition to these restrictions, the warranty requirements of the Contract shall exist in a direct extension from the manufacturer to the City, as well as from the Company to the City if the Good are sold by Company as a distributor or agent of the manufacturer.
- (d) The following express warranty applies: N/A
- (e) Warranty Repairs – Service Request All warranty repairs shall be completed within 14 days of the service request (holidays and weekends excluded). In the event that repairs cannot be completed due to part(s) availability, the Company shall be responsible for the cost of expediting the part. The City's Project Manager, however, has the authority to agree to an extension if deemed necessary as a result of part(s) availability.
- i) In the event the Company is unable to complete the repair as set forth above, the City shall have the option to either terminate the Contract or procure the service from another supplier. If the service is procured from another supplier, the Company shall pay to the City any difference between the Contract price and the price paid to the other supplier.
- (f) New Parts The parts delivered under this Contract must be new. New parts are defined as parts that are made up entirely of unused materials and/or genuine original parts. The parts must not have been operated for any purpose other than routine operational testing, except as specifically authorized elsewhere in this Contract. Demonstrator and reconditioned parts are not acceptable.

This entire Warranty Section will survive termination or expiration of this Contract for any reason.

D-8 Purchase Orders [CAO-4/2020]

- (a) A Purchase Order will be issued for the acquisition of the Services, specifying a single scheduled performance or multiple scheduled performances of the Services. The time allotted for performance of the Services under the Purchase Order commences on the date the City successfully electronically transmits or faxes the Purchase Order to the Company, or three (3) days after the mailing date of the Purchase Order to the Company. Any Purchase Order issued hereunder incorporates the terms and conditions of this Contract.
- (b) The following special ordering instructions apply: N/A

D-9 Telephone Orders [CAO-01/20/2016]

The ordering of Services by telephone **is not** permitted. The Company shall not accept telephone orders, unless explicitly authorized in writing by the City's Purchasing and Contracts Manager.

D-10 Service Calls and Response Times [CAO-01/20/16]

Upon receipt of a Service order, the Company's qualified maintenance technician must respond by phone within 14 days of the initial call for service. If on-site service is required, the technician must respond on-site within 21 days. If response is not possible due to insufficient time remaining in the day (before 5:30 p.m.), the 21 days maximum continues from 8:00 a.m. of the next work day.

D-11 Holidays/Weekends [CAO-4/2020] R

The Company is excused from performance on weekends and the following legal holidays (on the actual day the holiday is observed):

Martin Luther King's Birthday
President's Day
Memorial Day
Juneteenth
Independence Day
Labor Day
Nevada Admission Day
Veterans Day
Thanksgiving Day and Friday After
Christmas Day
New Year's Day

D-12 Liquidated Damages [CAO-01/20/2016]

Assessment of liquidated damages does not apply to this Contract.

SECTION E- GENERAL CONDITIONS

E-1 Legal Notice [CAO-4/2020]

(a) Any notice required to be given hereunder shall be deemed to have been given when written notice is (i) received by the party to whom it is directed by personal service; (ii) three (3) days after deposit with the United States Post Office, by registered or certified mail, postage prepaid and addressed to the party to be notified at the address for such party; (iii) one (1) day after deposit with a nationally recognized air courier service such as FedEx; or (iv) by an email sent to the email address of the recipient stated in this Section. All notices shall be effective upon receipt by the party to which notice is given or if it is delivered by email, when the recipient acknowledges having received that email, with an automatic "read receipt" not constituting acknowledgment of an email for notice purposes. Either party hereto may change its address by giving ten (10) days advance notice to the other party as provided herein. Phone and fax numbers, if listed, are listed for information only:

FOR THE CITY:	Manager, Purchasing and Contracts City of Las Vegas 495 South Main Street, 4th Floor Las Vegas, Nevada 89101-2986 Fax: (702) 384-9964 Email: purchasing@lasvegasnevada.gov
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FOR THE COMPANY:	As Noted in Section A-1 (f) of the Contract:
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(b) The parties shall provide written notification of any change in the information stated above.

- (c) For purposes of this Contract, legal notice shall be required for all matters involving potential termination actions, litigation, indemnification, and unresolved disputes. This does not preclude legal notice for any other actions having a material impact on the Contract.
- (d) Routine correspondence should be directed to the Project Manager or the Company Representative, as appropriate.

E-2 Disputes [CAO-4/2020]

- (a) For each claim or dispute arising between the parties under this Contract, the parties shall attempt to resolve the matter through escalating levels of management. In the event the matter cannot be successfully resolved in this manner, the City is granted the sole right, regardless of which party is asserting the claim or dispute, to determine between arbitration and litigation as the forum in which the party desiring to proceed further shall file to resolve the claim or dispute. For any and all claims or disputes asserted by the Company, the Company shall notify the City of its intent to proceed further with the claim or dispute and in response thereto, the City shall notify the Company as to its selected forum for resolution. For any and all claims or disputes asserted by the City, the City shall notify the Company in the notice of its intent to proceed with further resolution whether it has selected arbitration or litigation as the forum to resolve the claim or dispute. In the event arbitration is the designated forum, such arbitration shall be binding on the parties.
- (b) If arbitration is selected by the City as the forum for further resolution, the claim or dispute shall be filed with the American Arbitration Association under its then current Commercial Arbitration Rules, Expedited Procedures, regardless of the amount of the claim or dispute.
- (c) The laws of the State of Nevada shall govern the validity, construction, performance, and effect of this Contract, without giving effect to its conflict of law provisions. If arbitration is selected, each party hereto consents to, and waives any objection to, venue being the offices of the American Arbitration Association located in Las Vegas, Nevada, or other venue mutually agreed by the parties. If litigation is selected, each party hereto consents to, and waives any objection to, the State courts located in the County of Clark, State of Nevada as the proper and exclusive venue for any disputes arising out of or relating to this Contract or any alleged breach thereof. Each party hereby waives trial by jury in any action, proceeding or counterclaim brought by either of them against the other on any matters whatsoever arising out of or in any way connected with this Contract.

E-3 Notice of Delay [CAO-01/20/16]

- (a) If timely performance by the Company is jeopardized by the non-availability of City provided personnel, data, or equipment, the Company shall notify the City immediately in writing of the facts and circumstances causing such delay. Upon receipt of this notification, the City will advise the Company in writing of the action which will be taken to remedy the situation.
- (b) The Company shall advise the City in writing of an impending failure to meet established milestones or delivery dates based on the Company's failure to perform. Notice shall be provided as soon as the Company is aware of the situation; however, such notice shall not relieve the Company from any existing obligations regarding performance or delivery.

E-4 Termination for Convenience [CAO-08/22/2019]

The City shall have the right at any time to terminate further performance of this Contract, in whole or in part, for any reason whatsoever (including no reason). Such termination shall be effected by written notice from the City to the Company specifying the extent and effective date of the termination. On the effective date of the termination, the Company shall terminate all work and take all reasonable actions to mitigate expenses. The Company shall submit a written request for incurred costs for services performed through the date of termination, and shall provide any substantiating documentation requested by the City. In the event of such termination, the City agrees to pay the Company within thirty (30) days after receipt of a correct, adequately documented written request. The City's sole liability under this Section is for payment of costs for goods and services requested by the City and actually performed by the Company.

E-5 Event of Default [CAO-12/30/2020]

- (a) If, during the term of this Contract, the Company (i) fails to deliver services that comply with the Scope of Work, (ii) fails to deliver the services within the time specified in the Purchase Order or Scope of Work or any extension thereof, (iii) fails to make progress so as to endanger the performance of this Contract, (iv) becomes insolvent, bankrupt or makes an assignment for the benefit of creditors, or if a receiver or trustee in bankruptcy is appointed for the Company, or if any proceeding in bankruptcy, receivership, or liquidation is instituted against the Company and is not dismissed within

thirty (30) days following commencement thereof, or (v) fails to perform any of the other obligation or requirement of this Contract, then any of the aforementioned failures shall constitute an "Event of Default" under this Contract.

- (b) If there occurs an Event of Default, the Company shall be entitled to ten (10) calendar days from written notice thereof to remedy the Event of Default, provided, however, such is capable of being remedied within that period. If the Event of Default can be remedied, but the remedy cannot be completed within the ten (10) day period, the Company may be allowed such additional time as may be reasonably necessary to remedy the Event of Default, provided, however, the remedy is commenced within the ten (10) day period and is diligently pursued to completion but in no event later than thirty (30) days after such written notice. Said time period may be extended at City's sole discretion. If the Event of Default is incapable of remediation, or is not remedied as required herein, the City may, in addition to any other remedies available in law or equity, invoke any of the remedies provided for under Section E-6, "Termination for Default", below.

E-6 Termination for Default [CAO-4/2020]

- (a) If the Event of Default is not remedied as required pursuant to Section E-5, "Event of Default", the City may, by written notice to the Company pursuant to Section E-1, "Legal Notice", terminate this Contract in whole or in part.
- (b) If this Contract is terminated in whole or in part because the Company has failed to provide Services in compliance with the specifications by the deadline of remediation period, the City may acquire, under reasonable terms and in a manner it considers appropriate, replacement services that are comparable to the Services that the Company failed to deliver to the City, and the Company shall be liable to the City for any excess costs related thereto. If the City terminates this Contract only in part, the Company shall continue to perform the un-terminated obligations or portions of this Contract.
- (c) The Company shall not be liable for any excess costs if the failure to perform the Contract arises from circumstances beyond the control of, and without the fault or negligence on the part of, the Company. These circumstances are limited to such causes as (i) acts of God or of the public enemy, (ii) acts of governmental bodies, (iii) fires, (iv) floods, (v) epidemics/pandemics, (vi) quarantine restrictions, (vii) labor strikes, (viii) freight embargoes, or (ix) unusually severe weather. The time of performance of the Company's obligations under this Contract shall be extended by such period of enforced delay; provided, however, that such reasonably extended time period shall not exceed sixty (60) days. If the foregoing circumstances result in a delay greater than 60 days, the City may terminate the affected portion of the Contract pursuant to the terms of Section E-4, "Termination for Convenience".
- (d) The City retains the right to terminate for default immediately if the Company fails to maintain the required insurance, and/or bonding, fails to comply with applicable local, state, and federal statutes governing performance of these services, or fails to comply with statutes involving health or safety.
- (e) If the City fails to perform any of its obligations required under this Contract, and the City does not remedy the failure after notice thereof is provided to the City by the Company pursuant to the requirements of Section E-1, "Legal Notice" above, the Company shall have the right to treat the failure as a claim or dispute subject to the resolution provisions of E-2, "Disputes" of this Contract. During the period of such resolution, the Company shall continue with its performance under the Contract.

E-7 Limitation of Funding/Non-Appropriation [CAO-4/2020]

The Company acknowledges that City is a governmental entity and the Contract's validity is based upon the availability of public funding under its authority. The City reserves the right to reduce estimated or actual quantities, in whatever amount necessary, without prejudice or liability to the City, if funding is not available or if legal restrictions are placed upon the expenditure of monies for the services required under this Contract. In addition, and without prejudice or liability to the City, if funds are not appropriated or otherwise made available to support continuation in any fiscal year succeeding the first fiscal year, this Contract will be deemed to have been terminated automatically when appropriated funds expire and are not available. The City shall notify Company in writing of any such non-allocation of funds at the earliest possible date and shall pay Company any reasonable fees earned and costs incurred in performing this Contract for any period prior to such notice.

E-8 Changes - Fixed-Price Goods or Services [CAO-4/2020]

- (a) The City may at any time, by written order, and without notice to the sureties, if any, make changes within the general scope of this Contract in any one or more of the following:
 - (i) Description of services to be performed or goods to be provided.
 - (ii) Time of performance (i.e., hours of the day, days of the week, etc.).

- (iii) Place of performance of the services.
- (iv) Time or place of delivery of goods
- (b) If any such change causes an increase or decrease in the cost of, or the time required for, performance of any part of the work under this Contract, the Company shall provide current, complete, and accurate documentation to the City in support of any request for equitable adjustment.
- (c) The Company must assert its right to an adjustment under this clause within thirty (30) days from the date of receipt of the written order, or shall otherwise be barred and shall have waived any right to an adjustment under this clause.
- (d) The parties shall negotiate a timely requested equitable adjustment by mutual written agreement and the change will be effected by purchase order revision. Failure to agree to any adjustment shall be a dispute under Section E-2, "Disputes"; however, nothing in this clause shall excuse the Company from proceeding with the Contract as changed.

E-9 Entire Contract, Section and Paragraph Headings [CAO-4/2020]

- (a) This Contract represents the entire and integrated agreement between the City and the Company. It supersedes all prior and contemporaneous understandings, negotiations, communications, representations, and agreements, whether oral or written, relating to the subject matter of this Contract.
- (b) The section and paragraph headings appearing in this Contract are inserted for the purpose of convenience and ready reference. They do not purport to define, limit, or extend the scope or intent of the language of the sections and paragraphs to which they pertain.

E-10 Order of Precedence [CAO-7/24/08]

In the event of a conflict between the specific language set forth in Sections A through E of this Contract and any Attachment or Exhibit, the specific language in Sections A through E shall prevail. Any exception to this order of precedence will be addressed through specific language elsewhere in Sections A through E.

E-11 Severability [CAO-7/24/08]

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

E-12 Waiver [CAO-7/24/08]

Waiver of any of the terms of this Contract shall not be valid unless it is in writing signed by each party. The failure of the City to enforce any of the provisions of this Contract, or to require performance of any of the provisions herein, shall not in any way be construed as a waiver of such provisions or to affect the validity of any part of this Contract, or to affect the right of the City to thereafter enforce each and every provision of this Contract. Waiver of any breach of this Contract shall not be held to be a waiver of any other or subsequent breach of this Contract.

E-13 Modification/Amendment [CAO-7/24/08]

This Contract shall not be modified or amended except by the express written agreement of the parties, signed by a duly authorized representative for each party. Any other attempt to modify or amend this Contract shall be null and void, and may not be relied upon by either party.

E-14 Assignment [CAO-7/24/08]

Neither party may assign their rights nor delegate their duties under this Contract without the written consent of the other party. Such consent shall not be withheld unreasonably. Any assignment or delegation shall not relieve any party of its obligations under this Contract.

E-15 Indemnification [CAO-4/2020]

- (a) In addition to the insurance requirements set forth in Section D-6, "Insurance", and not in lieu thereof, the Company shall protect, defend, indemnify and hold harmless the City, its elected officials, officers, employees, agents, and consultants (collectively herein the "City") from and against any and all claims, liabilities, damages, losses, suits, actions, decrees, arbitration awards and judgments including attorney's fees, court costs or other expenses of any and every kind or character (collectively herein the "Liabilities") which may be recovered from or sought against the City, as a result of, by reason of, or as a consequence of (i) any act or omission, negligent or otherwise, on the part of the Company, its officers, employees, independent contractors, vendors, suppliers, consultants, or agents in the performance of the terms, conditions and covenants of the Contract; or (ii) a breach of any agreement between the Company and its employees, vendors, independent contractors, suppliers, consultants or agents; or (iii) any default in the performance of any obligation on Company's part to be performed under the terms of this Contract, regardless of whether the Liabilities were caused in part by the City. Company agrees that it is assuming the sole risk of any Liabilities related to the contraction by Company's officers, employees, vendors, suppliers, agents, independent contractors, and consultants or any other person of any viral infection or other disease, including, without limitation, COVID 19, related to the performance of this Contract and that Company's indemnity obligations contained herein cover any such Liabilities. In no event shall the language in this Section constitute or be construed as a waiver or limitation of the City's rights or defenses with regard to sovereign immunity, governmental immunity, or other official immunities and protections as provided by the Federal and State Constitutions or by law.
- (b) If a third party claim against the City for negligent performance by the Company is within the limits of its liability insurance, and the insurance company has accepted the City's tender of defense, then the City will pay the Company what is due and owing to them within the payment method specified in this Contract. However, if the claim is greater than the coverage amount, the City, for its protection, may retain any money due and owing the Company under this Contract, until the claim has been resolved. In the event no money is due and owing, the surety, if required, of the Company, may be held until all of the Liabilities have been settled and suitable evidence to that effect furnished to the City.
- (c) It is expressly agreed that the Company shall defend the City at Company's expense, by legal counsel reasonably satisfactory to City, against the Liabilities and in the event that the Company fails to do so, the City shall have the right, but not the obligation, to defend the same and to charge all direct and incidental costs, including attorney's fees and court costs, to the Company. Company's indemnity obligations herein are not intended to nor shall they relieve any insurance carrier of its obligations under policies required to be carried by Company pursuant to the provisions of this Contract. Company's obligations under this Section shall survive any termination of this Contract.

E-16 Patent Indemnity [CAO-12/30/2020]

The Company hereby indemnifies and shall defend and hold harmless the City and its representatives respectively from and against all claims, losses, costs, damages, and expenses, including attorney's fees, incurred by City and its representatives, respectively, as a result of or in connection with any claims or actions based upon infringement or alleged infringement of any patent or other intellectual property and arising out of the use of the equipment or materials furnished under the contract by the Company, or out of the processes or actions employed by, or on behalf of the Company in connection with the performance of the Contract. The Company shall, at its sole expense, by legal counsel reasonably satisfactory to City, promptly defend against any such claim or action unless directed otherwise by the City or its representative; provided that the City or its representatives shall have notified the Company upon becoming aware of such claims or actions, and provided further that the Company's aforementioned obligations shall not apply to equipment, materials, or processes furnished or specified by the City or its representatives.

E-17 Audit of Records [CAO-5/2/12]

- (a) The Company agrees to maintain the financial books and records (including supporting documentation) pertaining to the performance of this Contract according to standard accounting principles and procedures. The books and records shall be maintained for a period of three (3) years after completion of this Contract, except that books and records which are the subject of an audit finding shall be retained for three (3) years after such finding has been resolved. If the Company goes out of business, the Company shall forward the books and records to the City to be retained by the City for the period of time required herein.
- (b) The City or its designated representative(s) shall have the right to inspect and audit (including the right to copy and/or transcribe) the books and records of the Company pertaining to the performance of this Contract during normal business hours. The City will provide prior written notice to the Company of the audit and inspection. If the books and records are

not located within Clark County, the Company agrees to deliver them to the City, or to an address designated by the City within Clark County. In lieu of such delivery, the Company may elect to reimburse the City for the cost of travel (including transportation, lodging, meals, and other related expenses) to inspect and audit the books and records at the Company's office. If the books and records provided to the City are incomplete, the Company agrees to remedy the deficiency after written notice thereof from the City, and to reimburse the City for any additional costs associated therewith including, without limitation, having to revisit the Company's office. The Company's failure to remedy the deficiency shall constitute a material breach of this Contract. The City shall be entitled to its costs and reasonable attorney fees in enforcing the provisions of this Section.

- (c) If at any time during the term of this Contract, or at any time after the expiration or termination of the Contract, the City or the City's designated representative(s) find the dollar liability is less than payments made by the City to the Company, the Company agrees that the difference shall be either: (i) repaid immediately by the Company to the City or (ii) at the City's option, credited against any future billings due the Company.

E-18 Confidentiality – City Information [CAO-4/2020]

- (a) All information, including but not limited to, oral statements, computer files, databases, and other material or data supplied to the Company is confidential and privileged. The Company shall not disclose this information, nor allow it to be disclosed to any person or entity without the express prior written consent of the City. The Company will use at least the same standard of care and exercise equivalent security measures to maintain the confidentiality of the City's information that it uses to maintain the confidentiality of its own confidential information; provided in no event shall such standard be less than reasonable care. The Company shall have the right to use any such confidential information only for the purpose of providing the services under this Contract, unless the express prior, written consent of the City is obtained. City shall be and remain the sole owner of such confidential information. Nothing contained in this Contract shall be construed as granting or conferring any right or license in the City's information or in any patents, software, or other technology, either expressly or by implication to the Company. Upon request by the City, the Company shall promptly return to the City all confidential information supplied by the City, together with all copies and extracts. Company is required to employ the highest ethical standards and shall avoid those actions that are inconsistent with the City's best interest.
- (b) The confidentiality requirements shall not apply where (i) the information is, at the time of disclosure by the City, then in the public domain; (ii) the information is known to the Company prior to obtaining the same from the City; (iii) the information is obtained by the Company from a third party who did not receive the same directly or indirectly from the City; or (iv) the information is subpoenaed by court order or other legal process, but in such event, the Company shall notify the City. In such event the City, in its sole discretion, may seek to quash such demand.
- (c) The obligations of confidentiality shall survive the termination of this Contract.

E-19 Marketing Restrictions [CAO-4/2020]

The Company shall at all times be in compliance with Las Vegas Municipal Code 1.08.050, and shall not publish or sell any information from or about this Contract without the prior written consent of the City. This restriction does not apply to the use of the City's name in a general list of customers, so long as the list does not represent an express or implied endorsement of the Company or its services. The City logo shall not be used without the prior written consent of the City.

E-20 Intellectual Property Rights [CAO-4/2020]

All deliverables produced under this Contract, as well as all data, notes and documentation collected on behalf of the City, are exclusively the property of the City. The Company shall have no property interest in, and may assert no claim or lien on, or right to withhold from the City, or right to use said data other than in performance of its obligations pursuant to this Contract, any data it receives from, receives access to, or stores on behalf of the City. At any time during the term of this Contract, and within thirty (30) days of the expiration or termination of this Contract, the Company will upon request return the data to the City at no charge in the format held by Company. On City request, the Company will delete all City data and will provide appropriate certification to the City to document the disposal. The Company shall promptly notify the City if the Company becomes aware of any unauthorized access, acquisition, disclosure, use, modification, destruction or other misuse of the City's data or other confidential information, and shall fully cooperate with the City in any legal action taken by the City to enforce its rights therein. This Section shall survive termination or expiration of this Contract.

E-21 Taxes/Compliance with Laws [CAO-08/01/13]

- (a) The City is exempt from paying Sales and Use Taxes under the provisions of Nevada Revised Statutes 372.325(4), and Federal Excise Tax, under Registry Number 88-87-0003k. The Company shall pay all taxes, levies, duties and assessments of every nature and kind which may be applicable to any work under this Contract. The Company shall make any and all payroll deductions required by law. The Company agrees to indemnify and hold the City harmless from any liability on account of any and all such taxes, levies, duties, assessments, and deductions.
- (b) The Company, in the performance of the obligations of this Contract, shall comply with all applicable laws, rules and regulations of all governmental authorities having jurisdiction over the performance of this Contract including, but not limited to, the Federal Occupational Safety and Health Act.

E-22 Licenses/Registrations [CAO-01/20/16]

During the entire performance period of this Contract, the Company shall maintain all federal, state, and local licenses, certifications and registrations applicable to the work performed under this Contract, including maintaining an active City of Las Vegas business license if required by Las Vegas Municipal Code 6.02.060.

E-23 Non-Discrimination and Fair Employment Practices [CAO-07/31/13]

- (a) Discrimination: The City of Las Vegas is committed to promoting full and equal business opportunity for all persons doing business in Las Vegas. The Company acknowledges that the City has an obligation to ensure that public funds are not used to subsidize private discrimination. Company recognizes that if the Company or their subcontractors or subconsultants are found guilty by an appropriate authority of refusing to hire or do business with an individual or company due to reasons of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status, City may declare the Company in breach of contract and terminate Contract.
- (b) Fair Employment Practices: In connection with the performance of work under this Contract, the Company agrees not to discriminate against any employee or applicant for employment because of race, color, religion, national origin, sex, sexual orientation, gender identity or expression, age, disability, national origin, or any other legally protected status. Such agreement shall include, but not be limited to, the following: employment; upgrading; demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- (c) The Company further agrees to insert this provision in all subcontracts hereunder. Any violation of such provision by a Company shall constitute a material breach of this Contract.

E-24 Employment of Unauthorized Aliens [CAO-01/20/16]

In accordance with the Immigration Reform and Control Act of 1986, the Company agrees that it will not employ unauthorized aliens in the performance of this Contract.

E-25 Conforming Services [CAO-4/2020]

The Services performed under this Contract shall conform in all respects with the requirements set forth in this Contract. The Company shall furnish the City with sufficient data and information needed to determine if the Services performed conform to all the requirements of this Contract.

E-26 Independent Contractor [CAO-4/2020]

In the performance of its obligations under this Contract, the Company and any other person employed by it shall be deemed to be an independent contractor and not an agent or employee of the City. The Company shall be liable for the actions of any person, organization, or corporation with which it subcontracts to fulfill this Contract. Accordingly, Company shall be responsible for payment of all taxes including federal, state and local taxes arising out of the Company's activities in accordance with this Contract, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or business license fees as required under existing or subsequently enacted laws, rules or regulations. Company shall not be entitled to any benefits afforded to City's employees, including without limitation worker's compensation, disability insurance, health insurance, vacation, or sick pay. Company shall be responsible for providing, at Company's expense, and in Company's name, unemployment, disability, worker's compensation, and other insurance, as well as licenses and permits usual or necessary for performance of its obligations

pursuant to this Contract. Company shall hereby defend, indemnify, and hold the City harmless from any claims, losses, costs, fees, attorney's fees, liabilities, damages or injuries suffered by the City arising out of Company's failure with respect to its obligations in this Section. Company, upon request, shall furnish evidence satisfactory to the City that any or all of the foregoing obligations have been fulfilled. During Company's contacts with third parties they shall identify themselves as an independent party and not as an employee for the City. Company understands and agrees that they do not have the power or authority to bind City in any capacity. The City shall hold the Company as the sole responsible party for the performance of this Contract. The Company shall maintain complete control over its employees and all of its subcontractors. Nothing contained in this Contract or any subcontract awarded by the Company shall create a partnership, joint venture, or agency with the City. Neither party shall have the right to obligate or bind the other party in any manner to any third party.

E-27 Official, Agent and Employees of the City Not Personally Liable [CAO-01/20/16]

It is agreed by and between the parties of this Contract, that in no event shall any official, officer, employee, or agent of the City in any way be personally liable or responsible for any covenant or agreement therein contained whether expressed or implied, nor for any statement, representation or warranty made herein or in any connection with this Contract.

E-28 Conflict of Interest (City Officials) [CAO-4/2020]

- (a) An official of the City, who is authorized on behalf of the City to negotiate, make, accept or approve, or take part in negotiating, making, accepting, or approving this Contract, payments under this Contract, or work under this Contract, shall not be directly or indirectly interested personally in this Contract or in any part hereof. No officer, employee, architect, attorney, engineer or inspector of, or for the City, who is authorized on behalf of the City to exercise any legislative, executive, supervisory or other similar functions in connection with this Contract, shall become directly or indirectly interested personally in this Contract or in any part hereof, any material supply contract, subcontract, insurance contract, or any other contract pertaining to this Contract.
- (b) Each party represents that it is unaware of any financial or economic interest of any public officer or employee of the City relating to this Contract. Notwithstanding any other provision of this Contract, if such interest becomes known, the City may immediately terminate this Contract for default or convenience, based on the culpability of the parties.

E-29 Public Records [CAO-5/2/12]

The City is a public agency as defined by state law. As such, it is subject to the Nevada Public Records Law (Chapter 239 of the Nevada Revised Statutes). The City's Records are public records, which are subject to inspection and copying by any person (unless declared by law to be confidential). This Contract and all supporting documents are deemed to be public records.

E-30 Use By Other Government Entities [CAO-01/20/16]

A governing body or its authorized representative and the State of Nevada may join or use the contracts of local governments located within or outside this State with the authorization of the contracting vendor. In the event the Company allows another governmental entity to join the Contract, it is expressly understood that the City shall in no way be liable for the obligations of the joining governmental entity.

E-31 Certification – No Israel Boycott [CAO-4/2020]

(Applicable to contracts with an estimated annual amount over \$100,000)

By signing this Contract, the Company certifies that it is not engaged in, and agrees for the duration of the Contract not to engage in, a boycott of the State of Israel per NRS 332.065.

"Boycott of Israel" means refusing to deal or conduct business with, abstaining from dealing or conducting business with, terminating business or business activities with or performing any other action that is intended to limit commercial relations with Israel; or a person or entity doing business in Israel or in territories controlled by Israel, if such an action is taken in a manner that discriminates on the basis of nationality, national origin or religion. It does not include an action which is based on a bona fide business or economic reason; is taken pursuant to a boycott against a public entity of Israel if the boycott is applied in a nondiscriminatory manner; or is taken in compliance with or adherence to calls for a boycott of Israel if that action is authorized in 50 U.S.C. § 4607 or any other federal or state law.

“Company” means any domestic or foreign sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited-liability partnership, limited-liability company, or other domestic or foreign entity or business association, including, without limitation, any wholly owned subsidiary, majority owned subsidiary, parent company or affiliate of such an entity or business association, that exists for the purpose of making a profit.

A violation of this Section by Company shall be considered an incurable Event of Default of this Contract, thereby allowing the City to immediately terminate this Contract upon giving Legal Notice to Company.

E-32 Counterpart Signatures [CAO-08/11/2022]

This Contract may be executed in counterparts. All such counterparts will constitute the same contract and the signature of any party to any counterpart will be deemed a signature to, and may be appended to, any other counterpart. Executed copies hereof may be delivered by facsimile or e-mail and upon receipt will be deemed originals and binding upon the parties hereto, regardless of whether originals are delivered thereafter.

The parties agree that this Contract may be signed electronically via the City's designated electronic signature platform, and that the electronic signatures appearing herein shall be considered the same as handwritten signatures for the purposes of validity, admissibility, and enforceability.

E-33 Miscellaneous [CAO-4/2020]

- (a) In the event of a dispute under this Contract which results in litigation or other formal dispute resolution proceedings, the prevailing party shall be entitled to reimbursement of its or their actual reasonable attorney's fees and costs in connection with such proceeding.
- (b) Time is of the essence of the Contract and each of its provisions.

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IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives.

CITY OF LAS VEGAS

Signature

Date

Printed Name

Title

ATTEST:

Dr. LuAnn D. Holmes, MMC

Date

City Clerk

APPROVED AS TO FORM:

DocuSigned by:

Carmen Gilbert

3/3/2025 | 1:50 PM PST

Deputy City Attorney

Date

Carmen Gilbert

Printed Name

PARKEON

DocuSigned by:

Benoit Reliquet

3/3/2025 | 7:40 PM EST

Signature

Date

Benoit Reliquet

Printed Name

Mr

Title

EXHIBIT A – SCOPE OF WORK**1.0 Parking Meter Purchase and Installation**

1. The Company shall provide the products and services to accomplish the purchase, installation and acceptance of Multispace parking meters.
 - a) Scope of Meter Installation. The City of Las Vegas will determine the location of each meter and will prepare the ground for each meter with either a flush mount template or anchor base provided by Flowbird. Flowbird will activate and verify proper functionality of new meters if requested by the City.
 - b) System Configuration. Both the parking meters and Flowbird back-office shall be configured prior to activation of the meter system. This configuration includes, but is not limited to, rates and hours, user interfaces for both meters and Flowbird back-office, integration with the city's credit card processor and any other necessary features.
 - c) Training. Parking technicians and any other personnel designated by the City shall be trained to handle the maintenance and operation of the parking meters to the extent that routine maintenance, collections, inoperability and receipt paper replacement can be performed by City staff.

Parking administration and any other personnel designated by the City shall be trained on Flowbird software so they they will be able to fully utilize all features of the software.

- d) Technical Support. Technical support for both meters and Flowbird back-office shall be available, at a minimum, Monday-Friday from 8:00 a.m. to 8:00 p.m. Eastern Standard time.
2. The Company shall provide the following deliverables:
 - a) Receipt and acceptance of Web Based Pay By Plate Enforcement Interface with required credentials to be accessed via the Internet using a customer supplied Web enabled device or PDA;
 - b) Meter installation and acceptance
 - c) Access and acceptance of Flowbird back-office; and
 - d) Performance measures, as follows:

Flowbird Performance Measures	Service Level	Service Target	Penalty*
<i>*(Penalties in each category are not additive and higher penalty applies). Maximum penalty cannot exceed One month Back-Office fee for any or all stations involved.</i>			
System Performance			
Online System Performance	Flowbird System operational during Parking Service Hours. Current Hours to be defined exclusive of Schedule Maintenance Outages for which the City will be notified in advance.	95% of credit transactions will be processed by terminal within 12 seconds from "Authorization Processing to Approval/Decline".	If system operates below 95% online system performance during service hours for a given monthly service period, Flowbird will credit City 5% of monthly total fee for each 1% below standard.
Offline System Performance	Pay Stations continue to function in "Hold and Send" mode and accept credit card transactions independent of failure of the Flowbird back-office, Flowbird server, or other system elements. This feature only applies to magstripe only card readers and does not apply to EMV chip card readers. Hold and Send will work in these situations up to the limitations of the meter memory capacity	98% of transaction data available the Flowbird back-office no later than 24 hours from transaction time. 100% capability to operate in hold and send.	If system operates below 98% online system performance during service hours (exclusive of scheduled maintenance) for a given monthly service period Parkeon will credit City 5% of monthly total fee for each 1% below standard.

	or until the limits are reached as defined in the pay station set-up per customer requirements.		
Flowbird Back-Office Access and Support Services			
Flowbird Back-Office Service	8:00am – 8:00pm EST Monday-Friday Excluding holidays. User access to Flowbird back-office system via Internet. Exclude any local customer Internet access issues.	98% access to Flowbird back-office system.	If system operates below 98% online system performance during service hours (exclusive of scheduled maintenance) for a given monthly service period Parkeon will credit City 5% of monthly total fee for each 1% below standard.
Flowbird Help Desk Support	8:00am – 8:00pm EST Mon.-Fri. excluding holidays.	24hr response	Non response of more than 24 hours will result in a credit of \$50 per incident for critical requests (not non-critical requests TRNG, Perso, etc...)
	All incidents must be emailed or communicated via live Voice contact and reference # retained.	48hr resolution	Non resolution after 48 hours will result in a credit of \$100 per incident for critical requests (not non-critical requests TRNG, PERSO, etc...)
Pay Station Machine Support Services			
Level 2 Technical Support Services	8:00am – 8:00pm EST Mon.-Fri. excluding holidays.	24hr response	Non response of more than 24 hours will result in a credit of \$50 per incident for critical requests (not non-critical requests TRNG, Perso, etc...)
	All incidents must be emailed or communicated via live Voice contact and reference # retained.	48hr resolution	Non resolution after 48 hours will result in a credit of \$100 per incident for critical requests (not non-critical requests TRNG, PERSO, etc...)
Spare Part Delivery/ Availability	Stock majority of parts in USA	Ship within 3 days of order. Limited to quantity of stock in US inventory. Shipping of parts to customer does not take place until the defective items are received from the customer and thereby measurement of this metric starts only at that time.	An inventory of spare parts and units is included elsewhere in this agreement. Therefore, no credit assessment will be assumed by Flowbird for these standards.

	Future communications hardware upgrades will be available to accommodate current provider service disruptions and service discontinuance.	During contract period, any required hardware changes needed to continue operation will be available.	Any future communication hardware or software required in the event the present carrier's service becomes unavailable for an extended time will be provided to the customer per the terms of the parts/upgrade pricing provisions of this agreement.
Payment Data			
Accurate preservation and recording of transaction data.	Data will be available for a rolling 12 month period via the Flowbird back-office. Customers are encouraged to archive data older than 12 months. Flowbird can recommend methods for this storage.	Have all transaction data available on the Flowbird back-office for no less than 12 months.	In cases where data is not available for reasons caused by the Contractor, Flowbird will credit the monthly back-office fee associated with the Pay Station(s) on which these transactions were processed and for only those months during which the transactions are not available.
<p><u>General Exclusions: The following are excluded from credit assessment provisions unless specifically noted elsewhere in this agreement.</u></p> <ul style="list-style-type: none"> <i>Failures outside the control of the Contractor, including but not restricted to, vandalism, burglary, misuse, unplanned outages or service disruptions of communication carriers, planned outages of systems or communications providers, accidental damage and acts of God.</i> <i>Pay stations that are not adequately managed or where correct maintenance is not performed. Upon request, Flowbird should be provided with Preventive maintenance records documentation showing recommended services have been completed. Further inspection by Flowbird may be granted to Flowbird to determine possible causes of failure in question.</i> <i>Failures not reported in writing to the Contractor.</i> 			

2.0 Product Upgrades and Services

Upon City request, the Company will provide product upgrades and services. Pricing is set forth in Exhibit B.

3.0 Parking Meter Support & Maintenance

The Company will provide annual support & maintenance of each parking meter with Flowbird back-office management. Pricing and features is set forth in Exhibit B.

As the customer has purchased the rate module under the original contract but has not yet received the module, Flowbird will provide one monthly event programming free of charge to the customer as per this agreement.

Flowbird will offer one advanced training session for up to three staff members, free of charge. This session will cover advanced programming topics, including meter configuration, rate setup, and user interface programming.

- The customer must schedule this training, and the first session will be provided at no cost.
- Additional sessions will be charged at the standard rate of \$1,500 per attendee.

4.0 Meter and App Merchant Processing Services

On at least a monthly basis, the Flowbird or Flowbirds Merchant Services Provider will process parking meter credit card transactions through their merchant account. Customer will receive the parking fee less the payable transaction fee and process for settlement, documentation support set forth in Exhibit B-Pricing.

EXHIBIT B - PRICING

1.0 PARKING METER PURCHASES

Flowbird Pay Stations (Strada S5 and CWT S4+)

Strada S5 Model (City of Las Vegas configuration)

Included Hardware:

\$5895.00/each

- Magic Blue Color
- Standard Solar Recharged Battery Power Supply
- Credit card/ISO 7816 Smart card dual-purpose reader
- Thermal graphic printer with self-sharpening receipt cutting blade
- Coin Selector/Escrow Mechanism
- 4G Cellular modem and antenna kit
- Full color touch display
- High-security mechanical lock for maintenance compartment
- Electronic or mechanical lock for collection compartment
- Superior anti-graffiti housing
- Installation Hardware Kit
- Removable Locking Coin Collection Canister
- One Standard Receipt Paper Roll
- Shipping to City of Las Vegas warehouse

Included Software:

- Pay-by-Plate operating software & license

Included Services:

- Initial Set-up of Merchant Banking & PCI-DSS Level 1 Online Credit Card Processing
- Initial Rate/Tariff Station Configuration (PERSO)
- Initial Unit Graphics/Instructions
- One year Parts, Non-labor warranty

Spare & Replacement Parts Stock:

- Spare parts or components may be purchased at a 20% discount off of current list pricing during the term of the Contract.

Strada S5 Configuration Picture*

CWT S4+ Configuration Picture



*** Note that the above Strada S5 image shows an EMV reader and contactless antenna. These are considered optional products.**

2.0 PRODUCT UPGRADE AND SERVICES

• Additional Coin Collection Canister	\$265.00
• A/C Main Power Kit (Initial Build)	\$280.00
• S5 or S4+ door upgrade kit	\$3,250.00
• StreetSmart Display Kit	\$2,250.00
• EMV option	\$725.00
• Contactless Antenna Option	\$399.00
• External User Lighting Option	\$360.00
• Upgraded modem option	\$425.00
• Standard Receipt Paper (100 minimum roll order)	\$36.00
• Rate/Tariff (PERSO Software Change: Three (3) changes included annually at no cost regardless of unit count. Charges apply after 3 changes per year.	\$360.00
• Download Fee for a new rate change: Does not apply for downloading the three no-cost PERSO's included above. Charges apply after 3 changes per year.	\$5.00 per meter
• Custom Software Development Hourly Rate	\$85.00/hour
• Real-Time Data Sharing	\$1,900.00 setup, \$1,100.00/year
• Rate Editor/Download Module Module has been purchased already.	\$6,000.00 One-Time
• Onsite Retrofit/Labor – Hourly Rate	\$135.00
• Upgrades or services requiring onsite Parkeon field services	
• Travel expenses may apply depending on schedule and duration	
• Digital Services	
• Flowbird mobile payment app	\$0.10 per transaction
• Text receipts	\$0.03 per transaction
• Flowbird Extend-by-Text	\$0.35 per transaction
• Flowbird Pay-by-Text	\$0.35 per transaction
• Advertisement changes made by Flowbird.	\$650 per change

3.0 PARKING METER SUPPORT & MAINTENANCE

Flowbird Back-Office Management \$57.00/meter/month

(Required for all units) – Support & Maintenance

- 50 User Licenses – City Wide
- 2-way wireless connectivity and airtime fees between meter and hosted software management system
- On-line access to hosted secure server
- All transactions, maintenance, alarms, statistics being processed and stored
- Database space for storing statistics and secure user-rights management
- PCI certified real-time credit card authorization and management

Implementation/Commissioning: \$152.00 per meter

(Required for initial deployment, optional for subsequent unit orders as requested)

- Staging, pre-assembly, system pre-installation testing
- Documentation and verification of on-street site preparation
- Deployment and commissioning of meter for revenue service

4.0 PAYMENT PROCESSING SERVICES

1. The City will pay Company the Interchange fee plus \$0.08 for each transaction. Such amount will be billed monthly and payable on net 30 days.

1.a Option to pass on card fee to user, the City will have the option to add a service fee to parking meter, app and other payment services where the card fee or parts of the card fee will be covered by the end user.

2. The Company will handle processing of all credit and debit card payments accepted at City parking pay stations, on the Flowbird mobile app, and via Flowbird's Pay by Text system.

3. The Company will settle with the City for card transactions on at least a monthly basis on or before the 5th day of each month. The settlement will be for the cleared funds that the Company received for the transactions processed for the City since the prior settlement date, less any chargebacks or reversals assessed by the processor.

4. The City will promptly review all statements from the Company and the processor and will promptly notify the Company of any errors. The City acknowledges that if it does not notify the Company of an error on a statement within the time frame required by Company's agreement with its processor, neither it nor the processor will be obligated to reimburse it for such error, and the Company shall have no liability to the City of Las Vegas for any such amount.

- a) The Company will provide to the City all bank statements, billing statements and processor statements outlining the amounts withheld from the settlement.

5. The City will be provided with online web portal access for City staff to view all payments, run reports, manage charge backs, and manage customer dispute claims. The City will be responsible for responding to and resolving all cardholder billing inquiries and disputes related to card transactions, in each case in the time period required by the processor or card network in accordance with card network rules. The Company will provide notices relevant to the City's transactions promptly upon receipt.