

City of San Diego

CONTRACTOR'S NAME: AVI Systems, Inc.
ADDRESS: 10070 Willow Creek Road, San Diego, CA 92123
TELEPHONE NO.: 858-653-4300 **FAX NO.:** 858-695-7844
CITY CONTACT: Rosa Isela Riego, Senior Contract Specialist, Email: RRiego@sandiego.gov
Phone No. (619) 533-3426
Daichi Pantaleon

QUOTE DOCUMENTS

FOR

AV & E-VOTING SYSTEM

FINAL



MC NO.: M-21-0027
SAP NO. (WBS/IO/CC): 21004846

THIS CONTRACT WILL BE SUBJECT TO THE FOLLOWING:

- THE CITY'S SUBCONTRACTING PARTICIPATION REQUIREMENTS FOR SLBE PROGRAM.
- PREVAILING WAGE RATES: STATE
- APPRENTICESHIP

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NOTICE INVITING QUOTES

1. **SUMMARY OF WORK:** This is the City of San Diego's (City) solicitation process to acquire Minor Construction services for AV & E-Voting System. For additional information refer to Attachment A.
2. **LIMITED COMPETITION:** This solicitation is open only to City-certified **SLBE/ELBE** firms on the City's approved Prequalified Contractors List. For information regarding the SLBE-ELBE Construction Program and registration visit the City's web site: <http://www.sandiego.gov>.
3. **ESTIMATED CONSTRUCTION COST:** The City's estimated construction cost for this project is \$223,781.00.
4. **PREVAILING WAGE RATES APPLY TO THIS CONTRACT:** Refer to Attachment D.
5. **LICENSE REQUIREMENT:** The City has determined that the following licensing classification(s) are required for this contract: C-7.
6. **AWARD PROCESS:**
 - 6.1. The Award of this contract is contingent upon the Contractor's compliance with all conditions of Award as stated within these documents.
 - 6.2. The City may award the contract to the contractor with the written price quotation offering the best value to the City, considering factors such as price, unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs, experience and qualification of the contractor, when the contractor can start and complete the project, and any additional factors deemed relevant.
 - 6.3. This contract will be deemed executed and effective only upon the signing of the Contract by the Mayor or his designee and approval as to form by the City Attorney's Office.
7. **SUBMISSION OF QUESTIONS:**
 - 7.1. Any questions related to this solicitation shall be submitted to:
Public Works Contracts
525 B Street, Suite 750
San Diego, California, 92101
Attention: Rosa Isela Riego
OR:
RRiego@sandiego.gov

INSTRUCTIONS TO BIDDERS

1. PREQUALIFICATION OF CONTRACTORS:

- 1.1. Contractors submitting a Quote must be pre-qualified for the total amount proposed, including all alternate items, prior to the date of submittal.

2. ELECTRONIC FORMAT RECEIPT AND OPENING OF QUOTES: Quotes will be received in electronic format EXCLUSIVELY at the City of San Diego's electronic bidding (eBidding) site, at: <http://www.sandiego.gov/cip/bidopps/index.shtml> and are due by the date, and time shown on the cover of this solicitation.

- 2.1. **BIDDERS MUST BE PRE-REGISTERED** with the City's bidding system and possess a system-assigned Digital ID in order to submit an electronic quote.
- 2.2. The City's bidding system will automatically track information submitted to the site including IP addresses, browsers being used and the URLs from which information was submitted. In addition, the City's bidding system will keep a history of every login instance including the time of login, and other information about the user's computer configuration such as the operating system, browser type, version, and more. Because of these security features, Contractors who disable their browsers' cookies will not be able to log in and use the City's bidding system.
- 2.3. The City's electronic bidding system is responsible for quote tabulations. Upon the bidder's or proposer's entry of their quote, the system will ensure that all required fields are entered. **The system will not accept a quote for which any required information is missing.** This includes all necessary pricing, subcontractor listing(s) and any other essential documentation and supporting materials and forms requested or contained in these solicitation documents.
- 2.4. **QUOTES REMAIN SEALED UNTIL QUOTE DEADLINE.** eBids are transmitted into the City's bidding system via hypertext transfer protocol secure (https) mechanism using SSL 128-256 bit security certificates issued from Verisign/Thawte which encrypts data being transferred from client to server. Quotes submitted prior to the "Quote Due Date and Time" are not available for review by anyone other than the submitter who has until the "Quote Due Date and Time" to change, rescind or retrieve its proposal should it desire to do so.
- 2.5. **QUOTES MUST BE SUBMITTED BY QUOTE DUE DATE AND TIME.** Once the quote deadline is reached, no further submissions are accepted into the system. Once the Quote Due Date and Time has lapsed, bidders, proposers, the general public, and City staff are able to immediately see the results online. City staff may then begin reviewing the submissions for responsiveness.

2.6. QUOTES MAY BE WITHDRAWN by the Bidder only up to the quote due date and time.

2.6.1. Important Note: Submission of the electronic quote into the system may not be instantaneous. Due to the speed and capabilities of the user's internet service provider (ISP), bandwidth, computer hardware and other variables, it may take time for the bidder's submission to upload and be received by the City's eBidding system. It is the bidder's sole responsibility to ensure their quotes are received on time by the City's eBidding system. The City of San Diego is not responsible for quotes that do not arrive by the required date and time.

2.7. ACCESSIBILITY AND AMERICANS WITH DISABILITIES ACT (ADA) COMPLIANCE: To request a copy of this solicitation in an alternative format, contact the Public Works Contract Specialist listed on the cover of this solicitation at least five (5) working days prior to the Quote due date to ensure availability.

3. ELECTRONIC QUOTE SUBMISSIONS CARRY FULL FORCE AND EFFECT

3.1. The bidder, by submitting its electronic quote, acknowledges that doing so carries the same force and full legal effect as a paper submission with a longhand (wet) signature.

3.2. By submitting an electronic quote, the bidder certifies that the bidder has thoroughly examined and understands the entire Contract Documents (which consist of drawings, forms, affidavits and the solicitation documents), and that by submitting the eBid as its quote proposal, the bidder acknowledges, agrees to and is bound by the entire Contract Documents.

3.3. The Bidder, by submitting its quote, agrees to and certifies under penalty of perjury under the laws of the State of California, that the certification, forms and affidavits submitted as part of this quote are true and correct.

3.4. The Bidder agrees to the construction of the project as described in Attachment "A-Scope of Work" for the City of San Diego, in accordance with the requirements set forth herein for the electronically submitted prices. The Bidder guarantees the Contract Price for a period of 120 days from the date of quote opening. The duration of the Contract Price guarantee shall be extended by the number of days required for the City to obtain all items necessary to fulfill all conditions precedent.

4. QUOTES ARE PUBLIC RECORDS: Upon receipt by the City, Quotes shall become public records subject to public disclosure. It is the responsibility of the respondent to clearly identify any confidential, proprietary, trade secret or otherwise legally privileged information contained within the Quote. General references to sections of the California Public Records Act (PRA) will not suffice. If the Contractor does not provide applicable case

law that clearly establishes that the requested information is exempt from the disclosure requirements of the PRA, the City shall be free to release the information when required in accordance with the PRA, pursuant to any other applicable law, or by order of any court or government agency, and the Contractor will hold the City harmless for release of this information.

5. CONTRACTOR REGISTRATION AND ELECTRONIC REPORTING SYSTEM:

5.1. Prior to the Award of the Contract or Task Order, you and your Subcontractors and Suppliers must register with the City's web-based vendor registration and quote management system. For additional information go to:

<http://www.sandiego.gov/purchasing/bids-contracts/vendorreg.shtml>.

5.2. The City may not award the contract until registration of all subcontractors and suppliers is complete. In the event this requirement is not met within the time frame specified in the Notice of Intent to Award letter, the City reserves the right to rescind the Notice of Award / Intent to Award and to make the award to the next responsive and responsible bidder / proposer.

6. JOINT VENTURE CONTRACTORS: Provide a copy of the Joint Venture agreement and the Joint Venture license to the City within 10 Working Days after receiving the Contract forms. See 3-6, "The Contractors Representative" in The GREENBOOK and WHITEBOOK.

7. PREVAILING WAGE RATES WILL APPLY: Refer to Attachment D.

8. INSURANCE REQUIREMENTS:

8.1. All certificates of insurance and endorsements required by the contract are to be provided upon issuance of the City's Notice of Intent to Award letter.

8.2. Refer to sections 5-4, "INSURANCE", and 5-4.11, "WORKERS' COMPENSATION INSURANCE AND EMPLOYERS LIABILITY INSURANCE" of the Supplementary Special Provisions (SSP) for the insurance requirements which must be met.

9. REFERENCE STANDARDS: Except as otherwise noted or specified, the Work shall be completed in accordance with the following standards:

Title	Edition	Document Number
Standard Specifications for Public Works Construction ("The GREENBOOK") http://www.greenbookspecs.org/	2018	PWPI010119-01

Title	Edition	Document Number
City of San Diego Standard Specifications for Public Works Construction ("The WHITEBOOK")* https://www.sandiego.gov/publicworks/edocref/greenbook	2018	PWPI010119-02
City of San Diego Standard Drawings* https://www.sandiego.gov/publicworks/edocref/standarddraw	2018	PWPI010119-03
Citywide Computer Aided Design and Drafting (CADD) Standards https://www.sandiego.gov/publicworks/edocref/drawings	2018	PWPI010119-04
California Department of Transportation (CALTRANS) Standard Specifications – http://www.dot.ca.gov/des/oe/construction-contract-standards.html	2018	PWPI030119-05
CALTRANS Standard Plans http://www.dot.ca.gov/des/oe/construction-contract-standards.html	2018	PWPI030119-06
California Manual on Uniform Traffic Control Devices Revision 1 (CA MUTCD Rev 1) - http://www.dot.ca.gov/trafficops/camutcd/	2014	PWPIO92816-07
<p>NOTE: *Available online under Engineering Documents and References at: http://www.sandiego.gov/publicworks/edocref/index.shtml</p> <p>*Electronic updates to the Standard Drawings may also be found in the link above.</p>		

10. CITY'S RIGHTS RESERVED: The City reserves the right to cancel the Notice Inviting Quotes at any time, and further reserves the right to reject submitted Quotes, without giving any reason for such action, at its sole discretion and without liability. Costs incurred by the Bidder(s) as a result of preparing Quotes under the Notice Inviting Quotes shall be the sole responsibility of each bidder. The Notice Inviting Quotes creates or imposes no obligation upon the City to enter a contract.

11. CONTRACT PRICING: This solicitation is for a Lump Sum contract with Unit Price provisions as set forth herein. The Bidder agrees to perform construction services for the City of San Diego in accordance with these contract documents for the prices listed below. The Bidder further agrees to guarantee the Contract Price for a period of 120 days from the date of Quote opening. The duration of the Contract Price guarantee may be extended, by mutual consent of the parties, by the number of days required for the City to obtain all items necessary to fulfill all contractual conditions.

12. SUBCONTRACTOR INFORMATION:

12.1. LISTING OF SUBCONTRACTORS. In accordance with the requirements provided in the "Subletting and Subcontracting Fair Practices Act" of the California Public Contract Code, the Bidder shall provide the **NAME** and **ADDRESS** of each

Subcontractor who will perform work, labor, render services or who specially fabricates and installs a portion [type] of the work or improvement, in an amount in excess of 0.5% of the Contractor's total Quote. The Bidder shall also state within the description, whether the subcontractor is a **CONSTRUCTOR, CONSULTANT** or **SUPPLIER**. The Bidder shall state the **DIR REGISTRATION NUMBER** for all subcontractors and shall further state within the description, the **PORTION** of the work which will be performed by each subcontractor under this Contract. The Contractor shall list only one Subcontractor for each portion of the Work. The **DOLLAR VALUE** of the total Quote to be performed shall be stated for all subcontractors listed. Failure to comply with this requirement may result in the Quote being rejected as **non-responsive** and ineligible for award. The Bidder's attention is directed to the Special Provisions - General; Paragraph 3-2, "Self-Performance", which stipulates the percent of the Work to be performed with the Bidders' own forces. The Bidder shall list all SLBE, ELBE, DBE, DVBE, MBE, WBE, OBE, SDB, WoSB, HUBZone, and SDVOSB Subcontractors for which Bidders are seeking recognition towards achieving any mandatory, voluntary (or both) subcontracting participation goals.

12.2. Additionally, pursuant to California Senate Bill 96 and in accordance with the requirements of Labor Code sections 1771.1 and 1725.5, by submitting a quote or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the California Department of Industrial Relations (DIR). **The Bidder shall provide the name, address, license number, DIR registration number of any Subcontractor - regardless of tier** - who will perform work, labor, render services or specially fabricate and install a portion [type] of the work or improvement pursuant to the contract.

13. SUBMITTAL OF "OR EQUAL" ITEMS: See Section 4-6, "Trade Names" in The WHITEBOOK and as amended in the SSP.

14. AWARD:

14.1. The Award of this contract is contingent upon the Contractor's compliance with all conditions precedent to Award.

14.2. The City may award the contract to the contractor with the written price quotation offering the best value to the City, considering factors such as price, unit cost, life cycle cost, economic cost analysis, operating efficiency, warranty and quality, compatibility with existing equipment, maintenance costs, experience and qualification of the contractor, when the contractor can start and complete the project, and any additional factors deemed relevant.

- 14.3.** This contract will be deemed executed and effective only upon the signing of the Contract by the Mayor or his designee and approval as to form the City Attorney's Office.
- 15. SAN DIEGO BUSINESS TAX CERTIFICATE:** The Contractor and Subcontractors, not already having a City of San Diego Business Tax Certificate for the work contemplated shall secure the appropriate certificate from the City Treasurer, Civic Center Plaza, First floor and submit to the Contract Specialist upon request or as specified in the Contract Documents. Tax Identification numbers for both the Bidder and the listed Subcontractors must be submitted on the City provided forms within these documents.
- 16. AWARD OF CONTRACT OR REJECTION OF QUOTES:**
- 16.1.** Bidders shall complete ALL eBid forms as required by this solicitation. Incomplete eBids will not be accepted.
- 16.2.** The City reserves the right to reject any or all Quotes, to waive any informality or technicality in Quotes received, and to waive any requirements of these specifications as to bidding procedure.
- 16.3.** Bidders will not be released on account of their errors of judgment. Bidders may be released only upon receipt by the City within 3 Working Days of the quote opening, written notice from the Bidder which shows proof of honest, credible, clerical error of a material nature, free from fraud or fraudulent intent; and of evidence that reasonable care was observed in the preparation of the Quote.
- 16.4.** The City of San Diego will not discriminate in the award of contracts with regard to race, religion creed, color, national origin, ancestry, physical handicap, marital status, sex or age.
- 16.5.** Each Quote package properly signed as required by these specifications shall constitute a firm offer which may be accepted by the City within the time specified herein.
- 17. QUOTE RESULTS:**
- 17.1.** The availability of the quotes on the City's eBidding system shall constitute the public announcement. In the event that the apparent low bidder is subsequently deemed non-responsive or non-responsible, a notation of such will be made on the eBidding system. The new ranking and apparent low bidder will be adjusted accordingly.
- 17.2.** To obtain the results, view the results on the City's web site, or request the results by U.S. mail and provide a self-addressed, stamped envelope. If requesting by mail, be sure to reference the quote name and number. The quote tabulations will

be mailed to you upon their completion. The results will not be given over the telephone.

18. THE CONTRACT:

18.1. The Bidder to whom award is made shall execute a written contract with the City of San Diego and furnish good and approved bonds and insurance certificates specified by the City within 14 days after receipt by Bidder of a form of contract for execution unless an extension of time is granted to the Bidder in writing.

18.2. If the Bidder takes longer than 14 days to fulfill these requirements, then the additional time taken shall be added to the Quote guarantee. The Contract shall be made in the form adopted by the City, which includes the provision that no claim or suit whatsoever shall be made or brought by Contractor against any officer, agent, or employee of the City for or on account of anything done or omitted to be done in connection with this contract, nor shall any such officer, agent, or employee be liable hereunder.

18.3. The award of the Contract is contingent upon the satisfactory completion of the above-mentioned items and becomes effective upon the signing of the Contract by the Mayor or designee and approval as to form the City Attorney's Office. If the selected contractor does not execute the Contract or submit required documents and information, the City may award the Contract to another responsible and reliable Bidder who shall fulfill every condition precedent to award. The selected firm shall furnish evidence of its corporate existence and evidence that the officer signing the Contract and bond for the corporation is duly authorized to do so.

19. EXAMINATION OF PLANS, SPECIFICATIONS, AND SITE OF WORK: The Bidder shall examine carefully the Project Site, the Plans and Specifications, other materials as described in the Special Provisions, Section 2-7, and the proposal forms (e.g., Bidding Documents). The submission of a Quote shall be conclusive evidence that the Bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and scope of Work, the quantities of materials to be furnished, and as to the requirements of the Bidding Documents Proposal, Plans, and Specifications.

20. CITY STANDARD PROVISIONS: This contract is subject to the following standard provisions. See The WHITEBOOK for details.

20.1. The City of San Diego Resolution No. R-277952 adopted on May 20, 1991 for a Drug-Free Workplace.

20.2. The City of San Diego Resolution No. R-282153 adopted on June 14, 1993 related to the Americans with Disabilities Act.

20.3. The City of San Diego Municipal Code §22.3004 for Contractor Standards.

- 20.4.** The City of San Diego's Labor Compliance Program and the State of California Labor Code §§1771.5(b) and 1776.
- 20.5.** Sections 1777.5, 1777.6, and 1777.7 of the State of California Labor Code concerning the employment of apprentices by contractors and subcontractors performing public works contracts.
- 20.6.** The City's Equal Benefits Ordinance (EBO), Chapter 2, Article 2, Division 43 of The San Diego Municipal Code (SDMC).
- 20.7.** The City's Information Security Policy (ISP) as defined in the City's Administrative Regulation 90.63.

21. PRE-AWARD ACTIVITIES:

- 21.1.** The contractor selected by the City to execute a contract for this Work shall submit the required documentation as specified in the herein and in the Notice of Award. Failure to provide the information as specified may result in the Quote being rejected as **non-responsive**.
- 21.2.** The decision that quote is non-responsive for failure to provide the information required within the time specified shall be at the sole discretion of the City.

PERFORMANCE BOND, LABOR AND MATERIALMEN'S BOND

FAITHFUL PERFORMANCE BOND AND LABOR AND MATERIALMEN'S BOND:

AVI Systems, Inc., a corporation, as principal, and Western Surety Company, a corporation authorized to do business in the State of California, as Surety, hereby obligate themselves, their successors and assigns, jointly and severally, to The City of San Diego a municipal corporation in the sum of **Two Hundred Twenty Three Thousand Seven Hundred Eighty One Dollars and Zero Cents (\$223,781.00)** for the faithful performance of the annexed contract, and in the sum of **Two Hundred Twenty Three Thousand Seven Hundred Eighty One Dollars and Zero Cents (\$223,781.00)** for the benefit of laborers and materialmen designated below.

Conditions: AV & E - Voting System M-21-0027

If the Principal shall faithfully perform the annexed contract with the City of San Diego, California, then the obligation herein with respect to a faithful performance shall be void; otherwise it shall remain in full force.

If the Principal shall promptly pay all persons, firms and corporations furnishing materials for or performing labor in the execution of this contract, and shall pay all amounts due under the California Unemployment Insurance Act then the obligation herein with respect to laborers and materialmen shall be void; otherwise it shall remain in full force.

The obligation herein with respect to laborers and materialmen shall inure to the benefit of all persons, firms and corporations entitled to file claims under the provisions of Article 2. Claimants, (iii) public works of improvement commencing with Civil Code Section 9100 of the Civil Code of the State of California.

Changes in the terms of the annexed contract or specifications accompanying same or referred to therein shall not affect the Surety's obligation on this bond, and the Surety hereby waives notice of same.

The Surety shall pay reasonable attorney's fees should suit be brought to enforce the provisions of this bond.

The Surety expressly agrees that the City of San Diego may reject any contractor or subcontractor which may be proposed by Surety in fulfillment of its obligations in the event of default by the Principal.

The Surety shall not utilize the Principal in completing the improvements and work specified in the Agreement in the event the City terminates the Principal for default.

PERFORMANCE BOND, LABOR AND MATERIALMEN'S BOND (continued)

Dated November 25, 2020

Approved as to Form

AVI System, Inc.

Principal

By Randi Borth

RANDI BORTH, TREASURER,

Printed Name of Person Signing for Principal

Mara W. Elliott, City Attorney

By [Signature]

Deputy City Attorney

Western Surety Company

Surety

By [Signature]
Gail T. Hayes Attorney-in-fact

Approved:

By [Signature]
Stephen Samara
Principal Contract Specialist
Engineering & Capital Projects Department

151 N. Franklin St. 17th Floor

Local Address of Surety

Chicago, IL 60606

Local Address (City, State) of Surety

701-356-8174

Local Telephone No. of Surety

Premium \$ 895.00

Bond No. 30105369

CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

Civil Code § 1189

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

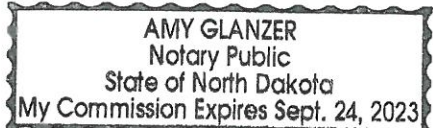
State of NORTH DAKOTA
County of CASS

On November 25th 2020 before me, Amy Glanzer, North Dakota Notary

personally appeared Gail T. Hayes

Who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.



Witness my hand and official seal. Signature [Handwritten Signature]

Place Notary Public Seal Above

OPTIONAL

Though the information below is not required by law, it may prove valuable to the persons relying on the document and could prevent fraudulent removal and reattachment of this form to another document.

Description of Attached Document

Title or Type of Document
Document Date
Number of Pages:
Signer's Name:

Form with checkboxes for Individual, Corporate Officer, Partner, Guardian or Conservator, Attorney-in-Fact, Trustee, Other. Includes a box for 'RIGHT THUMBPRINT OF SIGNER' and 'Top of thumb'.

Form with checkboxes for Individual, Corporate Officer, Partner, Guardian or Conservator, Attorney-in-Fact, Trustee, Other. Includes a box for 'RIGHT THUMBPRINT OF SIGNER' and 'Top of thumb'.

ACKNOWLEDGMENT OF PRINCIPAL

State of Kansas

County of Johnson

On this 1st day of December 2020 before me a Notary Public in and for the State of Kansas personally appeared Randi Boate know to me to be the Treasurer of the principal described in the within instrument and who executed the same and acknowledge to me that he/she executed the same for on behalf of the said principal.



Katy Achtenberg
NOTARY PUBLIC

(SEAL)

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Brenda L Parker, Judith L Jorissen, Daniel W Werner, Gail T Hayes, Michael J Boub, Phoebe L Kuntz, Zared Lefor, Charles P Klabo, Anthony Gross, Kristina Holtgard, Ashley Farthing, Amy Glanzer, Kathy Kramer, Senada Ranglall, Susan B Fischer-LeBeau, Individually

of Fargo, ND, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 24th day of February, 2020.

WESTERN SURETY COMPANY



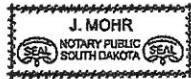
Paul T. Bruflat
Paul T. Bruflat, Vice President

State of South Dakota }
County of Minnehaha } ss

On this 24th day of February, 2020, before me personally came Paul T. Bruflat, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is the Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

June 23, 2021



J. Mohr
J. Mohr, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 25th day of November, 2020.



WESTERN SURETY COMPANY

L. Nelson
L. Nelson, Assistant Secretary

Form F4280-7-2012

Go to www.cnasurety.com > Owner / Oblige Services > Validate Bond Coverage, if you want to verify bond authenticity.

ATTACHMENTS

ATTACHMENT A

SCOPE OF WORK

SCOPE OF WORK

1. SCOPE OF WORK:

BACKGROUND:

The City of San Diego (City) is seeking qualified individuals, firms, or teams to procure and install a comprehensive technology replacement for our audio-visual (AV) and electronic voting system located within the City Council Chamber, located on the twelfth floor at 202 C Street in San Diego.

The City is seeking to improve and replace the overall electronic voting system, as well as the audio and visual components in the Council Chamber. The decades old infrastructure and equipment is aging and in need of replacement. To improve communications within the Council Chamber, a complete, turnkey AV system will need to be procured and installed that will be compatible with our current CityTV system.

The procurement and installation of the AV system shall include, but are not limited to, a new sound reinforcement system, an electronic voting system, an automated touch-screen control system, new lighting for television, new mult box, new projector and screen/video displays and other general audio-visual system enhancements.

The Respondent is expected to provide all the materials and services that will fulfill or exceed the requirements and conditions as set forth in this request for quote.

VOLUNTARY SITE WALK

There will be voluntary site walks scheduled at the request of prospective bidders, at the City of San Diego City Hall – 202 C St., San Diego, CA 92101. All prospective bidders to this request for quote are invited to schedule a site walk. Site walks are offered on Wednesday, September 9 through Friday, September 11, 2020, between 8 a.m. and 2 p.m., and must be scheduled with the Project Manager no later than close of business day on Thursday, September 3, 2020. The site walk is intended to provide an opportunity to discuss and clarify this request for quote and will include a tour of the site. Although the site walk is not mandatory, prospective bidders' attendance will be taken into consideration during the selection process. Nothing said or represented during this site walk shall be deemed to modify the requirements of this request for quote unless followed by a written change in request. Individuals attending the site walk must be employees of the firm responding to this request for quote. Quotes are due no later than Monday, October 5, 2020.

The selected contractor will be expected to perform all technical and other analyses necessary to complete the scope of work. The contractor will receive general direction from the City Project Manager. Tasks and deliverables will include the following:

1. **Work Schedule**

All work for this project is tentatively scheduled to be completed between December 16, 2020 and January 8, 2021, within regular business hours, between 8 a.m. and 5p.m., Monday through Friday, excluding Holidays observed.

- The project will entail:
- Procuring agreed-upon equipment;
- Staging and Assembly and Installation and Testing for the Council Chamber; and
- Training of City employee(s) or agent(s)

As part of this project, selected contractor must submit a Project Schedule outlining the work schedule for Staging and Assembly, Installation and Testing and Training.

2. **Display System**

The Council Chamber currently has five (5) monitors – two (2) 55 inch, one (1) 70 inch, one (1) 40 inch, and one (1) 65 inch – to display presentations during meetings. The system is wired with outdated technology and the City would like to improve the quality of the display, enhance access and sight lines for members of the public. Improvements shall include, but are not limited to, the following elements:

- a. Replacing all monitors with equal or better equipment (LED).
- b. Improving viewing angles of all presentations.
- c. Add one (1) monitor to provide additional or interpretive information via closed captioning or subtitling.
- d. Replacing the center, main monitor.
- e. Replacing wiring, as needed.

Selected contractor must obtain or provide a 5-year warranty for all audio/visual hardware and equipment. All warranties must be transferrable and will be transferred to the City upon completion of the project.

3. **Electronic Voting System**

The Council Chamber currently uses Crestron systems (MC2E Compact Control System with Ethernet and TPS-GA-TPI Isys G-Series Touchpanel Interface) to operate the voting system. This will need to be replaced with the newest and best functioning generation technology to manage the Chambers voting functions Improvements shall include, but are not limited to, the following elements:

- a. Replacing voting system to allow for several meeting configurations for each meeting type; there are currently 14 meetings set up.
- b. Replacing voting system to prevent staff seated behind Councilmembers from seeing votes prior to the end of voting.
- c. Replacing/Installing touch screens at each seating position located at the dais.
- d. Installing USB charging stations at each seating position located at the dais.
- e. Voting system to NOT include a Recuse button.
- f. Upgrading voting system to include an Abstain button for the City Clerk's use only.
- g. Replacing voting system to improve speaker time management, featuring timing display that will inform speakers of the time allotted, as well as featuring speaker priority light that will display the orders of speakers.
- h. Upgrading voting system that display final votes cast.

Selected contractor must obtain or provide a 5-year warranty for all the voting system hardware and equipment. All warranties must be transferable and will be transferred to the City upon completion of the project.

4. **Audio-Visual System**

The Council Chamber's audio-visual system is currently connected with the Crestron systems (MC2E Compact Control System with Ethernet and TPS-GA-TPI Isys G-Series Touchpanel Interface). The audio-visual system will need to be replaced with the newest and best functioning generation technology to allow the Council Chambers' audio and microphone system to be integrated with the upgraded voting system as well as the City's municipal government access cable channel (CityTV). The new audio-visual system should feature capability to allow the City to uninstall and re-install associated equipment, should a need arise for Council Chambers to relocate to another City facility. Improvements shall include, but are not limited to, the following elements:

- a. Upgrading audio control to allow for different volume levels, as well as providing volume and microphone control for the City Clerk and Council President only from dais.
- b. Replacing existing microphones with upgraded model.
- c. Replacing translation devices/headsets.
- d. Upgrading the audio-visual switch system that support AV / CityTV switching between Council Chamber.
- e. Upgrading the system to provide ability to turn off ding.

- f. Be compatible with our current e-coil system installed within Council Chambers.
- g. Installing a system/equipment in the Council Chamber that allows public speakers to provide presentations that is disconnected from the City's network.
- h. Replacing the press patch/media panel in the Council Chamber.
- i. Upgrading lighting in Council Chamber for enhanced video quality.
- j. Providing software needed to operate equipment.

Selected contractor must obtain or provide a 5-year Warranty for all Audio/Visual Hardware and Equipment. All warranties must be transferrable and will be transferred to the City upon project completion.

SITE CONDITIONS

All Equipment being upgraded will be Replaced in Place. The City Administration Building (project site) was built prior to the 1980s and contains asbestos-containing materials, especially in the internal walls and ceilings. Due to such conditions, the selected contractor is not permitted to perform work within the internal walls and above the ceiling. In the event that the selected contractor inadvertently causes a disturbance to asbestos containing materials (ACM), the selected contractor must inform the Project Manager(s) immediately prior to proceeding with any additional work. The selected contractor will follow abatement requirements in the event of a disturbance of ACM. Below are the primary and secondary

Project Managers:

Daichi Pantaleon (Primary)
 Program Manager
 Office of the City Clerk
 202 C Street, 2nd Floor
 San Diego, CA 92101
 619-533-4060
dpantaleon@sandiego.gov

Bridgette Brashear (Secondary)
 Building Supervisor
 Real Estate Assets – Facilities
 202 C St.
 San Diego, CA 92101
 619-980-4607
bbrashear@sandiego.gov

1.1. The Work shall be performed in accordance with:

1.1.1. The Notice Inviting Quotes.

2. **ESTIMATED CONSTRUCTION COST:** The City's estimated construction cost for this project is **\$223,781.00.**

3. **LOCATION OF WORK: The location of the Work is as follows:**

**City Administration Building
202 C Street, 12th Floor (Council Chambers)
San Diego, CA 92101**

4. **CONTRACT TIME:** The Contract Time for completion of the Work, shall be **30 Working Days.**

ATTACHMENT B
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ATTACHMENT D
PREVAILING WAGES

PREVAILING WAGES

1. **PREVAILING WAGE RATES:** Pursuant to San Diego Municipal Code section 22.3019, construction, alteration, demolition, repair and maintenance work performed under this Contract is subject to State prevailing wage laws. For construction work performed under this Contract cumulatively exceeding \$25,000 and for alteration, demolition, repair and maintenance work performed under this Contract cumulatively exceeding \$15,000, the Contractor and its subcontractors shall comply with State prevailing wage laws including, but not limited to, the requirements listed below.
 - 1.1. **Compliance with Prevailing Wage Requirements.** Pursuant to sections 1720 through 1861 of the California Labor Code, the Contractor and its subcontractors shall ensure that all workers who perform work under this Contract are paid not less than the prevailing rate of per diem wages as determined by the Director of the California Department of Industrial Relations (DIR). This includes work performed during the design and preconstruction phases of construction including, but not limited to, inspection and land surveying work.
 - 1.1.1. Copies of such prevailing rate of per diem wages are on file at the City and are available for inspection to any interested party on request. Copies of the prevailing rate of per diem wages also may be found at <http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm>. Contractor and its subcontractors shall post a copy of the prevailing rate of per diem wages determination at each job site and shall make them available to any interested party upon request.
 - 1.1.2. The wage rates determined by the DIR refer to expiration dates. If the published wage rate does not refer to a predetermined wage rate to be paid after the expiration date, then the published rate of wage shall be in effect for the life of this Contract. If the published wage rate refers to a predetermined wage rate to become effective upon expiration of the published wage rate and the predetermined wage rate is on file with the DIR, such predetermined wage rate shall become effective on the date following the expiration date and shall apply to this Contract in the same manner as if it had been published in said publication. If the predetermined wage rate refers to one or more additional expiration dates with additional predetermined wage rates, which expiration dates occur during the life of this Contract, each successive predetermined wage rate shall apply to this Contract on the date following the expiration date of the previous wage rate. If the last of such predetermined wage rates expires during the life of this Contract, such wage rate shall apply to the balance of the Contract.
 - 1.2. **Penalties for Violations.** Contractor and its subcontractors shall comply with California Labor Code section 1775 in the event a worker is paid less than the prevailing wage rate for the work or craft in which the worker is employed. This shall be in addition to any other applicable penalties allowed under Labor Code sections 1720 – 1861.

- 1.3. Payroll Records.** Contractor and its subcontractors shall comply with California Labor Code section 1776, which generally requires keeping accurate payroll records, verifying and certifying payroll records, and making them available for inspection. Contractor shall require its subcontractors to also comply with section 1776. Contractor and its subcontractors shall submit weekly certified payroll records online via the City's web-based Labor Compliance Program. Contractor is responsible for ensuring its subcontractors submit certified payroll records to the City.
- 1.3.1.** Contractor and their subcontractors shall also furnish records specified in Labor Code section 1776 directly to the Labor Commissioner in the manner required by Labor Code section 1771.4.
- 1.4. Apprentices.** Contractor and its subcontractors shall comply with California Labor Code sections 1777.5, 1777.6 and 1777.7 concerning the employment and wages of apprentices. Contractor is held responsible for the compliance of their subcontractors with sections 1777.5, 1777.6 and 1777.7.
- 1.5. Working Hours.** Contractor and their subcontractors shall comply with California Labor Code sections 1810 through 1815, including but not limited to: (i) restrict working hours on public works contracts to eight hours a day and forty hours a week, unless all hours worked in excess of 8 hours per day are compensated at not less than 1½ times the basic rate of pay; and (ii) specify penalties to be imposed on contractors and subcontractors of \$25 per worker per day for each day the worker works more than 8 hours per day and 40 hours per week in violation of California Labor Code sections 1810 through 1815.
- 1.6. Required Provisions for Subcontracts.** Contractor shall include at a minimum a copy of the following provisions in any contract they enter into with a subcontractor: California Labor Code sections 1771, 1771.1, 1775, 1776, 1777.5, 1810, 1813, 1815, 1860 and 1861.
- 1.7. Labor Code Section 1861 Certification.** Contractor in accordance with California Labor Code section 3700 is required to secure the payment of compensation of its employees and by signing this Contract, Contractor certifies that "I am aware of the provisions of Section 3700 of the California Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this Contract."
- 1.8. Labor Compliance Program.** The City has its own Labor Compliance Program authorized in August 2011 by the DIR. The City will withhold contract payments when payroll records are delinquent or deemed inadequate by the City or other governmental entity, or it has been established after an investigation by the City or other governmental entity that underpayment(s) have occurred. For questions or assistance, please contact the City of San Diego's Prevailing Wage Unit at 858-627-3200.

- 1.9. Contractor and Subcontractor Registration Requirements.** This project is subject to compliance monitoring and enforcement by the DIR. A contractor or subcontractor shall not be qualified to quote on, be listed in a quote or proposal, subject to the requirements of section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, unless currently registered and qualified to perform public work pursuant to Labor Code section 1725.5. It is not a violation of this section for an unregistered contractor to submit a quote that is authorized by Section 7029.1 of the Business and Professions code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.
- 1.9.1.** A Contractor's inadvertent error in listing a subcontractor who is not registered pursuant to Labor Code section 1725.5 in response to a solicitation shall not be grounds for filing a quote protest or grounds for considering the quote non-responsive provided that any of the following apply: (1) the subcontractor is registered prior to quote opening; (2) within twenty-four hours after the quote opening, the subcontractor is registered and has paid the penalty registration fee specified in Labor Code section 1725.5; or (3) the subcontractor is replaced by another registered subcontractor pursuant to Public Contract Code section 4107.
- 1.9.2.** By submitting a quote or proposal to the City, Contractor is certifying that he or she has verified that all subcontractors used on this public work project are registered with the DIR in compliance with Labor Code sections 1771.1 and 1725.5, and Contractor shall provide proof of registration for themselves and all listed subcontractors to the City at the time of quote or proposal due date or upon request.
- 1.10. Stop Order.** For Contractor or its subcontractors engaging in the performance of any public work contract without having been registered in violation of Labor Code sections 1725.5 or 1771.1, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractors or unregistered subcontractor(s) on ALL public works until the unregistered contractor or unregistered subcontractor(s) is registered. Failure to observe a stop order is a misdemeanor.
- 1.11. List of all Subcontractors.** The Contractor shall provide the list of subcontractors (regardless of tier), along with their DIR registration numbers, utilized on this Contract prior to any work being performed; and the Contractor shall provide a complete list of all subcontractors with each invoice. Additionally, Contractor shall provide the City with a complete list of all subcontractors (regardless of tier) utilized on this contract within ten working days of the completion of the contract, along with their DIR registration numbers. The City shall withhold final payment to Construction Management Professional until at least thirty (30) days after this information is provided to the City.
- 1.12. Exemptions for Small Projects.** There are limited exemptions for installation, alteration, demolition, or repair work done on projects of \$25,000 or less. The

Contractor shall still comply with Labor Code sections 1720 et. seq. The only recognized exemptions are listed below:

- 1.12.1.** Registration. The Contractor will not be required to register with the DIR for small projects. (Labor Code section 1771.1)
- 1.12.2.** Certified Payroll Records. The records required in Labor Code section 1776 shall be required to be kept and submitted to the City of San Diego, but will not be required to be submitted online with the DIR directly. The Contractor will need to keep those records for at least three years following the completion of the Contract. (Labor Code section 1771.4).
- 1.12.3.** List of all Subcontractors. The Contractor shall not be required to hire only registered subcontractors and is exempt from submitting the list of all subcontractors that is required in section 1.11 above. (Labor code section 1773.3).

ATTACHMENT E
SUPPLEMENTARY SPECIAL PROVISIONS

SUPPLEMENTARY SPECIAL PROVISIONS

The following Supplementary Special Provisions (SSP) modifies the following documents:

1. The **2018 Edition** of the Standard Specifications for Public Works Construction (The "GREENBOOK").
2. The **2018 Edition** of the City of San Diego Standard Specifications for Public Works Construction (The "WHITEBOOK"), including the following:
 - a) General Provisions (A) for all Construction Contracts.

SECTION 3 – CONTROL OF THE WORK

3-13.3 **Warranty.** To the "WHITEBOOK", item 1 and item 2, DELETE in its entirety and SUBSTITUTE with the following:

1. Warranty and repair all defective materials and workmanship for a period of 1 year. This call back warranty period shall start on the date that the Work was accepted by the City. Additionally, you shall warranty the Work against all latent and patent defects for a period of 10 years.
2. You must obtain or provide a 5-year warranty for all audio/visual hardware and equipment provided under this contract. The warranty period for these specific items covered under manufacturers or suppliers warranties shall commence on the date they are placed into service at the direction of or as approved by the Engineer in writing.

SECTION 5 – LEGAL RELATIONS AND RESPONSIBILITIES

5-4 **INSURANCE.** To the "GREENBOOK", DELETE in its entirety and SUBSTITUTE with the following:

5-4 **INSURANCE.**

1. The insurance provisions herein shall not be construed to limit your indemnity obligations contained in the Contract.

5-4.1 **Policies and Procedures.**

1. You shall procure the insurance described below, at its sole cost and expense, to provide coverage against claims for loss including injuries to persons or damage to property, which may arise out of or in connection

with the performance of the Work by you, your agents, representatives, officers, employees or Subcontractors.

2. Insurance coverage for property damage resulting from your operations is on a replacement cost valuation. The market value will not be accepted.
3. You shall maintain this insurance for the duration of this Contract and at all times thereafter when you are correcting, removing, or replacing Work in accordance with this Contract. Your liabilities under the Contract, e.g., your indemnity obligations, is not deemed limited to the insurance coverage required by this Contract.
4. The payment for insurance shall be included in the Contract Price as bid by you. Except as specifically agreed to by the City in writing, you are not entitled to any additional payment. Do not begin any Work under this Contract until you have provided and the City has approved all required insurance.
5. Policies of insurance shall provide that the City is entitled to 30 Days (10 Days for cancellation due to non-payment of premium) prior written notice of cancellation or non-renewal of the policy. Maintenance of specified insurance coverage is a material element of the Contract. Your failure to maintain or renew coverage or to provide evidence of renewal during the term of the Contract may be treated by the City as a material breach of the Contract.

5-4.2 Types of Insurance.

5-4.2.1 Commercial General Liability Insurance.

1. Commercial General Liability Insurance shall be written on the current version of the ISO Occurrence form CG 00 01 07 98 or an equivalent form providing coverage at least as broad.
2. The policy shall cover liability arising from premises and operations, XCU (explosions, underground, and collapse), independent contractors, products/completed operations, personal injury and advertising injury, bodily injury, property damage, and liability assumed under an insured's contract (including the tort liability of another assumed in a business contract).
3. There shall be no endorsement or modification limiting the scope of coverage for either "insured vs. insured" claims or contractual liability. You shall maintain the same or equivalent insurance for at least 10 years following completion of the Work.
4. All costs of defense shall be outside the policy limits. Policy coverage shall be in liability limits of not less than the following:

<u>General Annual Aggregate Limit</u>	<u>Limits of Liability</u>
Other than Products/Completed Operations	\$2,000,000
Products/Completed Operations Aggregate Limit	\$2,000,000

Personal Injury Limit	\$1,000,000
Each Occurrence	\$1,000,000

5-4.2.2 Commercial Automobile Liability Insurance.

1. You shall provide a policy or policies of Commercial Automobile Liability Insurance written on the current version of the ISO form CA 00 01 12 90 or later version or equivalent form providing coverage at least as broad in the amount of \$1,000,000 combined single limit per accident, covering bodily injury and property damage for owned, non-owned, and hired automobiles (“Any Auto”).
2. All costs of defense shall be outside the limits of the policy.

5-4.2.3 Contractors Pollution Liability Insurance.

1. You shall procure and maintain at your expense or require your Subcontractor, as described below, to procure and maintain the Contractors Pollution Liability Insurance including contractual liability coverage to cover liability arising out of cleanup, removal, storage, or handling of hazardous or toxic chemicals, materials, substances, or any other pollutants by you or any Subcontractor in an amount not less than \$2,000,000 limit for bodily injury and property damage.
2. All costs of defense shall be outside the limits of the policy. Any such insurance provided by your Subcontractor instead of you shall be approved separately in writing by the City.
3. For approval of a substitution of your Subcontractor’s insurance, you shall certify that all activities for which the Contractors Pollution Liability Insurance will provide coverage will be performed exclusively by the Subcontractor providing the insurance. The deductible shall not exceed \$25,000 per claim.
4. Contractual liability shall include coverage of tort liability of another party to pay for bodily injury or property damage to a third person or organization. There shall be no endorsement or modification of the coverage limiting the scope of coverage for either “insured vs. insured” claims or contractual liability.
5. Occurrence based policies shall be procured before the Work commences and shall be maintained for the Contract Time. Claims Made policies shall be procured before the Work commences, shall be maintained for the Contract Time, and shall include a 12 month extended Claims Discovery Period applicable to this contract or the existing policy or policies that shall continue to be maintained for 12 months after the completion of the Work without advancing the retroactive date.
6. Except as provided for under California law, the policy or policies shall provide that the City is entitled to 30 Days prior written notice (10 Days for cancellation due to non-payment of premium) of cancellation or non-renewal of the policy or policies.

5-4.3 Rating Requirements. Except for the State Compensation Insurance Fund, all insurance required by this Contract as described herein shall be carried only by responsible insurance companies with a rating of, or equivalent to, at least “A-, VI” by A.M. Best Company, that are authorized by the California Insurance Commissioner to do business in the State, and that have been approved by the City.

5-4.3.1 Non-Admitted Carriers. The City will accept insurance provided by non-admitted, “surplus lines” carriers only if the carrier is authorized to do business in the State and is included on the List of Approved Surplus Lines Insurers (LASLI list).

All policies of insurance carried by non-admitted carriers shall be subject to all of the requirements for policies of insurance provided by admitted carriers described herein.

5-4.4 Evidence of Insurance. Furnish to the City documents e.g., certificates of insurance and endorsements evidencing the insurance required herein, and furnish renewal documentation prior to expiration of this insurance. Each required document shall be signed by the insurer or a person authorized by the insurer to bind coverage on its behalf. We reserve the right to require complete, certified copies of all insurance policies required herein.

5-4.5 Policy Endorsements.

5-4.5.1 Commercial General Liability Insurance.

5-4.5.1.1 Additional Insured.

1. You shall provide at your expense policy endorsement written on the current version of the ISO Occurrence form CG 20 10 11 85 or an equivalent form providing coverage at least as broad.
2. To the fullest extent allowed by law e.g., California Insurance Code §11580.04, the policy shall be endorsed to include the City and its respective elected officials, officers, employees, agents, and representatives as additional insured.
3. The additional insured coverage for projects for which the Engineer’s Estimate is \$1,000,000 or more shall include liability arising out of:
 - a) Ongoing operations performed by you or on your behalf,
 - b) your products,
 - c) your Work, e.g., your completed operations performed by you or on your behalf, or
 - d) premises owned, leased, controlled, or used by you.
4. The additional insured coverage for projects for which the Engineer’s Estimate is less than \$1,000,000 shall include liability arising out of:
 - a) Ongoing operations performed by you or on your behalf,

- b) your products, or
- c) premises owned, leased, controlled, or used by you.

5-4.5.1.2 Primary and Non-Contributory Coverage. The policy shall be endorsed to provide that the coverage with respect to operations, including the completed operations, if appropriate, of the Named Insured is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives. Further, it shall provide that any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

5-4.5.1.3 Project General Aggregate Limit. The policy or policies shall be endorsed to provide a Designated Construction Project General Aggregate Limit that will apply only to the Work. Only claims payments which arise from the Work shall reduce the Designated Construction Project General Aggregate Limit. The Designated Construction Project General Aggregate Limit shall be in addition to the aggregate limit provided for the products-completed operations hazard.

5-4.5.2 Commercial Automobile Liability Insurance.

5-4.5.2.1 Additional Insured. Unless the policy or policies of Commercial Auto Liability Insurance are written on an ISO form CA 00 01 12 90 or a later version of this form or equivalent form providing coverage at least as broad, the policy shall be endorsed to include the City and its respective elected officials, officers, employees, agents, and representatives as additional insured, with respect to liability arising out of automobiles owned, leased, hired or borrowed by you or on your behalf. This endorsement is limited to the obligations permitted by California Insurance Code §11580.04.

5-4.5.3 Contractors Pollution Liability Insurance Endorsements.

5-4.5.3.1 Additional Insured.

1. The policy or policies shall be endorsed to include as an Insured the City and its respective elected officials, officers, employees, agents, and representatives, with respect to liability arising out of:
 - a) Ongoing operations performed by you or on your behalf,
 - b) your products,
 - c) your work, e.g., your completed operations performed by you or on your behalf, or
 - d) premises owned, leased, controlled, or used by you.

Except that in connection with, collateral to, or affecting any construction contract to which the provisions of subdivision (b) of § 2782 of the California Civil Code apply, this endorsement shall not provide any duty of indemnity coverage for the active negligence of the City and its respective elected officials, officers, employees, agents, and representatives in any

case where an agreement to indemnify the City and its respective elected officials, officers, employees, agents, and representatives would be invalid under subdivision (b) of §2782 of the California Civil Code.

2. In any case where a claim or loss encompasses the negligence of the Insured and the active negligence of the City and its respective elected officials, officers, employees, agents, and representatives that are not covered because of California Insurance Code §11580.04, the insurer's obligation to the City and its respective elected officials, officers, employees, agents, and representatives shall be limited to obligations permitted by California Insurance Code §11580.04.

5-4.5.3.2 Primary and Non-Contributory Coverage. The policy or policies shall be endorsed to provide that the insurance afforded by the Contractors Pollution Liability Insurance policy or policies is primary to any insurance or self-insurance of the City and its elected officials, officers, employees, agents and representatives with respect to operations including the completed operations of the Named Insured. Any insurance maintained by the City and its elected officials, officers, employees, agents and representatives shall be in excess of your insurance and shall not contribute to it.

5-4.5.3.3 Severability of Interest. For Contractors Pollution Liability Insurance, the policy or policies shall provide that your insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability and shall provide cross-liability coverage.

5-4.6 Deductibles and Self-Insured Retentions. You shall pay for all deductibles and self-insured retentions. You shall disclose deductibles and self-insured retentions to the City at the time the evidence of insurance is provided.

5-4.7 Reservation of Rights. The City reserves the right, from time to time, to review your insurance coverage, limits, deductibles and self-insured retentions to determine if they are acceptable to the City. The City will reimburse you, without overhead, profit, or any other markup, for the cost of additional premium for any coverage requested by the Engineer but not required by this Contract.

5-4.8 Notice of Changes to Insurance. You shall notify the City 30 Days prior to any material change to the policies of insurance provided under this Contract.

5-4.9 Excess Insurance. Policies providing excess coverage shall follow the form of the primary policy or policies e.g., all endorsements.

5-4.11 Workers' Compensation Insurance and Employers Liability Insurance.

1. In accordance with the provisions of §3700 of the California Labor Code, you shall provide at your expense Workers' Compensation Insurance and Employers Liability Insurance to protect you against all claims under applicable state workers compensation laws. The City, its elected officials, and employees will not be responsible for any claims in law or equity occasioned by your failure to comply with the requirements of this section.

2. Limits for this insurance shall be not less than the following:
- | <u>Workers' Compensation</u> | <u>Statutory Employers Liability</u> |
|------------------------------|--------------------------------------|
| Bodily Injury by Accident | \$1,000,000 each accident |
| Bodily Injury by Disease | \$1,000,000 each employee |
| Bodily Injury by Disease | \$1,000,000 policy limit |
3. By signing and returning the Contract you certify that you are aware of the provisions of §3700 of the Labor Code which requires every employer to be insured against liability for worker's compensation or to undertake self-insurance in accordance with the provisions of that code and you shall comply with such provisions before commencing the Work as required by §1861 of the California Labor Code.

5-4.11.1. Waiver of Subrogation. The policy or policies shall be endorsed to provide that the insurer will waive all rights of subrogation against the City and its respective elected officials, officers, employees, agents, and representatives for losses paid under the terms of the policy or policies and which arise from Work performed by the Named Insured for the City.

APPENDIX A
Site Conditions and Asbestos Requirements

Site Conditions and Asbestos Requirements

1. This building contains asbestos containing building materials. Review the list of Asbestos Containing Materials (ACM) in this building for your information (attached).
2. Contractor shall not breach walls, ceiling, or ceiling tile planes while performing work related to this project.
3. Contractor shall use existing mounting brackets, conduits in the walls and ceiling.
4. If it is determined that suspected ACMs, suspected asbestos-containing debris, or building materials must be disturbed to perform this work, the Contractor must notify the Project Manager immediately to start internal City processes relating to work performed in City Facilities. Once notified, the Project Manager must implement City processes as outlined in A.R. 75.65 (attached). Contractor shall not conduct any further work prior to express authorization from the Project Manager.
5. If suspected asbestos-containing debris or suspected ACM is encountered, then work must stop immediately, the area must be vacated, and Contractor must notify the Project Manager. Contractor shall not conduct any further work prior to express authorization from the Project Manager.

202 C St. San Diego, CA 92101

List of Asbestos-Containing Materials

Type of Material	Material Location
Fire proofing	Floors 1 -5, 8-13 sprayed on all structural steel and decking
Fire proofing	Basement, 14, & 15 sprayed on all structural steel with some over-spray
Ceiling tiles. 2 foot x 5 foot, white, pattern is small holes in circular area	Ceilings on multiple floors
12"x 12" ceiling tiles: white, pattern is small holes in circular area	On all floors - primarily found in elevator lobby area
Pipe and fitting insulation	Through mechanical spaces, walls, and ceilings on all floors
12" x 12" and 9" x 9" floor tile and mastics	On all floors
Linoleum flooring	Areas on 10 th floor, 11 th floor, 13 th floor
Cement pipe	13 th floor air handling room
Transite panels	On Roof Cooling Tower
Fire Exit Door Cores	Located on floors throughout
Carpet Glues	Located on floors throughout
Baseboard Mastic	Located on floors throughout

CITY OF SAN DIEGO
ADMINISTRATIVE REGULATION

SUBJECT	Number 75.65	Issue 2	Page 1 of 16
HAZARDOUS MATERIALS MANAGEMENT PLAN	Effective Date January 20, 2017		

1. PURPOSE

1.1. To provide a Citywide procedure for all internal City *facilities*, and all *City operations and activities* related to the safe handling and environmentally-sound management of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* in order to ensure compliance with all Federal, State and local regulations.

2. SCOPE

2.1. This regulation applies to all City *facilities*, and *City operations and activities*.

3. DEFINITIONS

3.1. Definitions are listed in Appendix B.

4. POLICY

4.1. General

4.1.1. It is the policy of the City of San Diego that:

- a. All activities involving the purchase, handling, *storage, transport, or disposal of hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste* will be conducted in compliance with all applicable Federal, State and local laws and regulations;
- b. *Hazardous materials* or processes which result in the generation of *hazardous wastes* will only be used when it can be shown that either no alternative that is less hazardous or a method that generates less waste is available;
- c. *Waste minimization* activities will be considered when generating *hazardous waste, universal waste, or regulated waste*, to include but not limited to, procedures which substitute non-hazardous materials, modify processes, recycle chemicals, and use similar minimization technologies whenever feasible to reduce the amount of waste generated;
- d. All *City facilities*, and *City operations and activities* be open to inspection by applicable regulatory agency personnel and *HMMP* staff;

(Supersedes Administrative Regulation 75.65, Issue 1, effective November 15, 1991)

Authorized

[Signature on File]

CHIEF OPERATING OFFICER

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- e. All Departments submit a [Work Request For Asbestos, Lead & Mold Program Form \(GS-2064\)](#) to the Asbestos, Lead and Mold Program prior to any renovation, demolition, or scheduled and unscheduled maintenance projects so an inspection can be conducted to identify any mitigation issues. Form GS-2064 can be submitted electronically.
- f. The City develop and maintain a plan to address ongoing and emergency procedures as required under Federal, State, and local regulations for each *City facility*, and for *City operations and activities* that involve *hazardous materials, hazardous wastes, recyclable hazardous waste, universal waste, regulated waste*, or underground storage tanks; and
- g. The City provide employee training pursuant to Administrative Regulation (A.R.) 75.75, Hazardous Materials Management Training.

5. RESPONSIBILITY

5.1. Environmental Services Department

5.1.1. *Hazardous Materials Management Program (HMMP)* - The Environmental Services Department's *HMMP* is responsible for providing oversight and technical support for the *Hazardous Materials Management Plan (HMM Plan)* and provides the following services:

- a. Oversees and provides technical support for all City Departments as it relates to the City's *HMM Plan*, and modifies the City's Plan to ensure ongoing compliance.
- b. Provides information and instruction to all City Departments regarding compliance with, and implementation of all new legislation affecting the City's operational responsibilities for *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* management.
- c. Reports significant issues to Department management.
- d. Represents the City on *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* management issues with Federal, State, and local regulatory agencies.
- e. Reviews all pending and adopted legislation and regulations regarding *hazardous materials, hazardous waste, universal waste, recyclable hazardous waste, and regulated waste* management, and assesses the potential impact on *City facilities*, and *City operations and activities*. Disseminates information regarding key updates via newsletter, training, and/or other modes of communication.
- f. Reviews for accuracy and completeness all departmental instructions and standard operating procedures related to *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste*

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- g. issues, and approve prior to implementation.
- g. During emergency response activities, provides technical information to appropriate *facility* and emergency response contacts.
- h. In coordination with the Purchasing and Contracting Department and the Public Works Department Contracting Group, develops contract language for *hazardous waste, universal wastes, recyclable hazardous waste, and regulated waste* management and *disposal* services contracts. Coordinates with Citywide *hazardous waste disposal* and emergency contractors that provide service to *City facilities, and City operations and activities*.
- i. Upon request, assists other Departments/Divisions by evaluating uses of chemicals, materials, services, and equipment that involve *hazardous materials* or the *disposal of hazardous wastes, recyclable hazardous waste, universal waste, or regulated waste*. *Waste minimization* will be recommended as appropriate.
- j. Coordinates with City staff in the Public Works Department administering Capital Improvement Program (CIP) projects regarding removal of *hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* encountered during construction, including specification writing, submittal review, and on-site inspection.
- k. Coordinates payment of State fees for the City's proper *disposal of hazardous wastes* per each Environmental Protection Agency (EPA) *Generator ID* number.
- l. Assists *facility* staff in submitting annual Board of Equalization fees for *hazardous waste disposal* activities.

5.1.2. Asbestos, Lead and Mold Program (ALMP)

- a. Provides asbestos, lead and mold abatement services at *City facilities and City operations and activities* that include:
 - i. Identifies asbestos, lead, or mold containing building materials.
 - ii. Reviews planned CIP design submittals.
 - iii. Designs technical asbestos, lead and mold abatement specifications.
 - iv. Administers citywide asbestos, lead and mold abatement and laboratory services contracts.
 - v. Monitors asbestos, lead and mold abatement compliance including proper handling and disposal of asbestos, lead, and mold containing waste.
- b. Completes the services requested by a City Department upon receipt of a [Work Request For Asbestos, Lead & Mold Program Form \(GS-2064\)](#) prior to any renovations, demolition, or scheduled or non-scheduled maintenance project.
- c. Coordinates payment of County and State permit fees and taxes with *HMMP* for those *City operations and activities, or facilities* that require

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hazardous waste disposal. Provides the Facility Coordinator and Department/Division Coordinator generating the remediation project wastes with copies of payment information and manifests of proper disposal.

5.1.3. Tank Engineering and Environmental Management (TEEM)

- a. Administers the Underground Storage Tank and Aboveground Storage Tank Program. Administers CIP projects for remediation and removal of old underground storage tanks and installation of new underground storage tanks. Administers contract(s) for the annual tank testing for City facilities.
- b. Updates the California Environmental Reporting System (CERS) database with underground storage tank status reports for verification of the items on the County Department of Environmental Health Permit annual billing itemization.
- c. Provides the HMMP with access to review annual underground storage tank test results. TEEM will forward copies to applicable agencies and City facilities.
- d. Coordinates payment of County and State permit fees and taxes for those City operations and activities, or facilities that operate or remove underground storage tanks. Provides the Facility Coordinator and Department/Division Coordinator generating the remediation project wastes with copies of payment information and manifests demonstrating proper disposal of wastes.
- e. Coordinates with HMMP to resolve any environmental regulatory violations relating to underground and aboveground storage tank management.

5.2. Facility Coordinator (FC) and Department/Division Coordinator (DC)

- 5.2.1. Maintains the following facility records: Hazardous Materials Business Plan, operating permits, training records, Safety Data Sheets (SDS) formerly known as Material Safety Data Sheets, disposal records (including manifests, bills of lading, and receipts), weekly inspection reports, Chemical Release Reporting Assessment Form, Chemical Release Reporting Form (Form 304), regulatory agency reports, and hazardous waste fee/tax records.
- 5.2.2. Reviews each facility Hazardous Materials Business Plan semi-annually, for accuracy and completeness. Reports to the HMMP of any facility modification or change within 30 days of initiating a change to a facility building, or change in the amount, type, or storage location of a hazardous material, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste. Coordinates the Hazardous Materials Business Plan revisions with the HMMP.

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- 5.2.3. Ensures that weekly *hazardous material* and *hazardous waste* inspections are conducted in all *storage* and operations areas and takes corrective actions for any observed violations. Retains weekly inspection reports for a minimum of three (3) years. Weekly inspection reports must be readily available during inspections.
- 5.2.4. Ensures that any *chemical release* or incident involving *hazardous materials* or *hazardous waste* or *recyclable hazardous waste* is documented on the *Chemical Release Reporting Assessment Form* and *Chemical Release Reporting Form (Form 304)* and immediately reported to the *HMMP* and regulatory agencies when required by Federal, State, and local laws and regulations.
- 5.2.5. Ensures that all unidentified wastes, including wastes left by the public at City *facilities* or on other City property, are tested prior to proper *disposal*.
- 5.2.6. Notifies Department/Division staff of *HMMP* policies, any regulatory changes, and *HMMP* training class schedules as disseminated by the *HMMP*.
- 5.2.7. Immediately notifies pertinent regulatory agencies and the *HMMP*, via Public Works Dispatch (formerly Station 38) at (619) 527-7500 or other Department specific emergency communication method, of any known improper *disposal* or any known unauthorized release of *hazardous materials*, *hazardous waste*, *recyclable hazardous waste*, *universal waste*, or *regulated waste* at a City facility or any City operations and activities. Completes a *Chemical Release Reporting Assessment Form* and *Chemical Release Reporting Form (Form 304)* and sends copies to the *HMMP* and any pertinent regulatory agency as required.
- 5.2.8. Ensures proper *disposal* of all *hazardous materials*, *hazardous waste*, *recyclable hazardous waste*, *universal waste*, and *regulated waste* as required by Federal, State, and local regulations. Maintains disposal records, including *manifests* and other related documents, for a minimum of three (3) years.
- 5.2.9. Ensures that subordinates are properly trained according to A.R. 75.75, Hazardous Materials Management Training.
- 5.3. Purchasing and Contracting Department
 - 5.3.1. Develops, in conjunction with the *HMMP* and in coordination with Public Works Department Contracting Group, bid contract language for the purchase of *hazardous materials* and the proper *disposal* of *hazardous waste*, *recyclable hazardous waste*, *universal waste*, and *regulated waste*.
 - 5.3.2. Provides City Department/Division purchasers with a copy of each *Safety Data Sheet (SDS)* for items purchased.

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- 5.3.3. Considers purchase of products only if the product’s label and *SDS* clearly state product contents, hazard potential, and protective measures required for product use.
- 5.3.4. Confers with the *HMMP* on all contracts for *hazardous materials* and proper *disposal of hazardous waste, universal waste, recyclable hazardous waste, or regulated waste*, excluding underground tank removal, during bid development and the subsequent bid process.
- 5.4. Public Works Department - Engineering Branch and Contracting Group
 - 5.4.1. Maintains an as-needed consultant list to perform environmental engineering functions.
 - 5.4.2. Coordinates with the *HMMP* regarding specifications for City construction project contracts, as related to *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* for the identification, handling, testing, *storage, transport, and proper disposal*.
 - 5.4.3. Ensures that any *chemical releases* are immediately reported to the *HMMP* and regulatory agencies as required by Federal, State, and local laws and regulations.
- 5.5. Real Estate Assets Department
 - 5.5.1. Confers with the *HMMP* regarding the City’s purchase or lease of all property that has a high likelihood of containing *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste*, or is adjacent to a property with contamination from *hazardous materials, hazardous waste, recyclable hazardous waste, or regulated waste*.
 - 5.5.2. Conducts a reasonable environmental investigation for any property acquired by the City through purchase, gift, trade, exchange, or other means during a development activity, when that property has a high likelihood of containing *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste*, or is adjacent to property with contamination from *hazardous materials, hazardous waste, recyclable hazardous waste, or regulated waste*.
- 5.6. All City Employees
 - 5.6.1. Must comply with all Federal, State, and local regulations for management of *hazardous materials, hazardous waste, recyclable hazardous waste, universal*

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waste, and regulated waste. Failure to comply shall be grounds for appropriate disciplinary action, up to and including termination.

- 5.6.2. May not purchase, store, *transport*, or handle *hazardous materials*; or *transport or dispose of hazardous waste, recyclable hazardous waste, universal waste, or regulated waste* without direction from their supervisor, and have received the regulatory required training.
- 5.6.3. Must immediately notify their supervisor or Public Works Dispatch (formerly Station 38) at (619) 527-7500, or utilize their specific Department communication procedure if they observe storage, handling, *transport*, or *disposal* violations, or a *chemical release of hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste.*

5.7. Department Director /Division Deputy Director

- 5.7.1. Designates an on-site *FC* or *DC*, and alternates as necessary, for each location where *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste* is handled, stored, or disposed. The *FC* and *DC* are to be the most senior classified positions, below the Department Director or Division Deputy Director, located at each *facility*. Confers with the *HMMP* regarding designation of an *FC* when multiple Departments are located at the same *facility*.
- 5.7.2. Develops, updates, and maintains current departmental/divisional instructions and standard operating procedures regarding *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, regulated waste management, and chemical releases.*
- 5.7.3. Ensures the *Hazardous Materials Business Plan* for any *facility* assigned to the Department/Division is prepared and kept updated as changes warrant.
- 5.7.4. Requests adequate resources, including personnel, funding and materials, to implement, comply, and enforce the regulatory requirements for the training and management of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, regulated waste, and chemical releases.*
- 5.7.5. Encourages and supports use of alternate methods and materials that result in *source reduction and waste minimization of hazardous waste, recyclable hazardous waste, universal waste, and regulated waste.*
- 5.7.6. Ensures that performance plans include standards for complying with environmental regulatory requirements for training and management of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and*

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regulated waste; and chemical release reporting, as applicable.

- 5.7.7. Initiates appropriate disciplinary action when violations of the *HMM Plan* provisions and/or environmental regulatory requirements are discovered.
- 5.7.8. Ensures that employees will not be subject to retaliatory actions or reprisals for reporting improper handling, storage, *transport*, or *disposal* of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste; or chemical releases*, that violate Federal, State, and local regulations or the *HMM Plan*.

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APPENDIX A

Legal References

Local

City of San Diego Municipal Code
Industrial Waste Discharge Regulations
San Diego County Code, Chapters 9-11, Title 6
Administrative Regulation 75.75 – Hazardous Materials Management Training

State

California Code of Regulations (CCR)
Title 8 Industrial Relations (Cal-OSHA)
Title 13 Motor Vehicle (Hazardous Material Transportation)
Title 19 Public Safety (Flammable Liquid Transportation)
Title 22 Social Security, Division 4, Environmental Health
Title 22 Social Security, Division 4.5, Environmental Health Standards for the Management of Hazardous Waste
Title 23 Water Quality (Hazardous Material Disposal) Underground Storage Tank Regulations

California Health & Safety Code

Chapter 6.5 Hazardous Waste Control
Chapter 6.67 Aboveground Petroleum Storage Tank Program
Chapter 6.7 Underground Storage of Hazardous Substances
Chapter 6.95 Hazardous Materials Release Response Plans and Inventory

Uniform Fire Code

Federal

40 CFR Protection of the Environment
49 CFR Transportation

Forms

Attachment 1 - Chemical Release Reporting Assessment Form
Attachment 2 - Chemical Release Reporting Form (Form 304)
[Work Request For Asbestos, Lead & Mold Program Form \(GS-2064\)](#)

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Employee Right to Know
Hazardous Materials Management
Hazardous Waste Disposal

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Spills/Chemical Releases
Universal Waste

Administering Department

Environmental Services Department

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APPENDIX B

DEFINITIONS

Chemical Release

As defined in California Health and Safety Code Section 25501(s) and Title 19 of the California Code of Regulations, *chemical release* means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, unless permitted or authorized by a regulatory agency. *Chemical releases* must be immediately reported (expectation is within 15 minutes of the initiation of the chemical release) to all pertinent regulatory agencies after completing the *Chemical Release Reporting Assessment Form*.

Chemical Release Reporting Assessment Form

When a *chemical release* occurs or has been discovered, this form must be used to evaluate the incident to determine if regulatory reporting is required. This form must be retained on site for a minimum of three (3) years.

Chemical Release Reporting Form (Form 304)

When a *chemical release* has been determined to be reportable to regulatory agencies, this form must be used to document the incident and the agencies notified. This form must be retained on site for a minimum of three (3) years.

City operations and activities

Any City of San Diego activity where the City is responsible for management of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste*, including but not limited to activities related to construction sites, public rights-of-way, leased property, open space, and real estate transactions.

Department/Division Coordinator (DC)

The primary and alternate individuals designated by their Department Director/Division Deputy Director to coordinate and direct all *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste* activities of a Department/Division at a specified location or facility.

NOTE: Operations stations or buildings where personnel from multiple Departments/Divisions work shall have a *DC* designated for each Division assigned to the location.

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Disposal

Placement of all *hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* in a Department of Transportation (DOT) approved container or other approved container as regulations allow, with a completed *hazardous waste or universal waste* label or other required labeling, that is transported by a licensed *hazardous waste* hauler or *regulated waste* hauler for disposal at a licensed *hazardous waste Treatment, Storage and Disposal Facility (TSDf)*, recycling facility, or other *HMMP* approved disposal facility. Proper *disposal* does not include any of the following: discharge, deposit, injection, dumping, spilling, leaking, evaporating, igniting, releasing, emitting or placing of any *hazardous material, hazardous waste, recyclable hazardous waste, universal waste, or regulated waste* into the air, water, sewer, or on any land so that such waste or any constituent thereof may enter the environment, or be emitted into the air, or discharged into any water or water basin.

Facility

Any City owned or operated building, or group of buildings or property that is enclosed by a common fence or similarly controlled.

NOTE: A *facility* may include personnel from multiple Departments/Divisions operating within the same yard or building.

Facility Coordinator (FC)

The primary and alternate individuals designated by their Department Director/Division Deputy Director who are responsible for coordinating all activities of their *facility* to monitor and ensure compliance with all provisions of the City’s *Hazardous Materials Management Plan*.

Generator

Any person or agency whose act or process results in the production of *hazardous waste* as described in California Code of Regulations, Title 22, or whose act first causes a *hazardous waste* to become subject to Federal, State, and local laws and regulations.

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Hazardous Material

A substance, or combination of substances, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may either:

1. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness;

OR

2. pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of or otherwise managed.

AND

3. is currently in use or is being stored for use in an operation or process.

Unless expressly provided otherwise, *hazardous material* includes extremely hazardous material.

Hazardous Materials
Business Plan

A County of San Diego, Department of Environmental Health required document which sets out a basic set of actions to be followed in case of fire, explosion, natural disaster, or release of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* which could pose a threat to human health or the environment. The *Hazardous Materials Business Plan* must be updated annually or within thirty (30) calendar days of any change to the *facility* location, storage quantities, or types of wastes.

Hazardous Materials
Management Plan (HMM Plan)

Hazardous Materials Management Plan is defined herein and outlines how the City of San Diego manages *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* related to *City facilities, and City operations and activities*.

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Hazardous Materials Management Program (HMMP)

The Program within the City’s Environmental Services Department that monitors the City’s use and proper *disposal* of *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste*. The Program also acts as the liaison between the City and regulatory agencies monitoring *hazardous materials, hazardous waste, recyclable hazardous waste, universal waste, and regulated waste* management activities.

Hazardous Waste

A waste, or combination of wastes, which because of its quantity, concentration, or physical, chemical, or infectious characteristics, may either:

1. cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness;
- OR
2. pose a substantial present or potential hazard to human health or environment when improperly treated, stored, transported or disposed of or otherwise managed.

Manifest

A shipping document originated and signed by the *generator* (EPA 8700-22 or DHS 8022A) which must be completed and accompany all shipments of *hazardous wastes* being transported to a licensed *TSDF*. A completed *manifest* provides proof that the *hazardous waste* was disposed of in accordance with Federal, State, and local laws and regulations.

Recyclable Hazardous Waste

Hazardous wastes that may be recycled into a *hazardous material* in compliance with applicable state law, such as: (1) used oil that is recycled in compliance with California Health and Safety Code Section 25250.1(b); or (2) an exempt recyclable material under California Health and Safety Code Section 25143.2 that is managed in accordance with California Health and Safety Code Section 25143.9. *Recyclable hazardous wastes*, which may include used oil, antifreeze, and used oil filters, have modified regulatory testing, labeling, storage, transportation and recycling requirements as compared to *hazardous wastes*.

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Regulated Waste

A waste, that is not considered *hazardous waste*, but due to either its chemical or physical properties, petroleum contamination, or that it is a medical solid waste/biological waste, must be disposed of at a facility with Regional Water Quality Control Board approved Waste Discharge Requirements, such as a municipal Class III landfill.

Safety Data Sheet (SDS)

A document provided by a vendor for each *hazardous material*, which describes any hazardous properties of the material and provides detailed information on how to safely use, handle, and store the substance, and how to respond in the case of an unintentional exposure or release. Safety Data Sheets were formerly known as Material Safety Data Sheets.

Source Reduction

A reduction of the amount of *hazardous waste* generated by a process by making changes such as product substitution, process modification, or process recycling.

Storage

A holding of *hazardous materials, hazardous wastes, recyclable hazardous waste, universal waste, or regulated waste* in an approved and labeled container or tank for a temporary period, at the end of which any waste is *disposed*.

Transport

A movement of a *hazardous material* or an identified or suspected *hazardous waste* from one *facility* to another.

NOTE: *Transport* does not include moving waste between various locations or storage areas within the same *facility*. City employees do not have the proper license or certification to transport *hazardous waste* on roadways outside of a *facility*.

Treatment, Storage and Disposal Facility (TSD)

A facility that has received, at a minimum, a California Department of Toxic Substances Control permit, grant of interim status, a variance, or is otherwise authorized by California law and regulations to receive specific Resource Conservation and Recovery Act (RCRA) and/or non-RCRA *hazardous wastes* for processing, recycling, alternative fuel, or *disposal*. For purposes of this Administrative Regulation, any *TSD* located outside the jurisdiction of California must meet the same or higher standards as required by the State of California for the processing, recycling, or *disposal* of *hazardous waste*.

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Universal Waste

An item, substance, or object which must be stored, handled, and disposed of as defined by California Code of Regulations, Title 22, Chapter 23, Sections 66273.1- 66273.90. *Universal Waste* includes, but is not limited to, all types of batteries, lighting bulbs and tubes, electronics or any item containing a circuit board, mercury containing items, and all elements of a computer system including the monitor.

Waste Minimization

A reduction of the total amount of waste that must be sent for off-site disposal or recycling. *Waste minimization* can include on-site recycling, process modification and *source reduction*.

ATTACHMENT 1 – CHEMICAL RELEASE REPORTING ASSESSMENT FORM

Form found at: <http://citynet.sannet.gov/esd/forms/hazmat.shtml>

CHEMICAL RELEASE REPORTING ASSESSMENT FORM

Directions: Complete this Chemical Release Reporting Assessment to determine if regulatory agencies need to be notified of a chemical release. Use this as documentation of the release whether or not it was reportable.

Employee _____ Date _____ Time _____

Supervisor _____ Phone _____ Division _____

Release Location _____ Date/Time Release Discovered _____

Chemical Released _____ Estimated Amount _____ Gas Liquid Solid

INITIAL ASSESSMENT: If you answer YES to any question below, **IMMEDIATELY** report the chemical release to the specified regulatory agencies without delay.

Local/State Reporting (Circle the appropriate response for each question.)

1. Yes No Do you need Fire Department assistance due to an injury, OR due to the amount, location, or type of chemical released?
2. Yes No Has an employee or the public been injured (i.e., sent to a medical provider)?
3. Yes No Did the chemical release cause damage to public or private property?
4. Yes No Did the chemical release extend into any sewer, surface waters, storm water conveyance systems, utility vaults and conduits, wetlands, waterways, public roads, soil, or off site?
5. Yes No Did anyone, other than employees in the immediate area of the release, evacuate?
6. Yes No Did a release escape secondary containment?
7. Yes No Was there an uncontrolled or un-permitted release to the air from a chemical reaction or containerized gas?
8. Yes No Is the incident an imminent threat of release where a condition exist which creates a substantial probability of harm and requires immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment?
9. Yes No Is the incident an imminent threat of release due to an increased potential for fire, explosion, line rupture, equipment failure, or other outcomes that may endanger or cause exposure to employees, the public, or the environment?
10. Yes No Does the spill or threatened release involve an unknown material or contain an unknown hazardous constituent?

Federal Reporting

11. Yes No Did the chemical release exceed the federal reportable quantity? (Estimate the total quantity released or amount evaporating.) See list on back side for reportable quantities for some common chemicals used by staff. For other reportable quantities, refer to the SDS, 40 Code of Federal Regulations, Section 304, or website <http://homer.ornl.gov/raq/>.

REPORTING PROCEDURES: See Reverse Side For Additional Reporting Information

Revised 08 09 2016

REPORTING PROCEDURES:

A. If you answered YES to ANY question above, the release must be reported to regulatory agencies. Make the following calls without any further delay:

- Cal Governor’s Office of Emergency Services (Formerly Cal EMA) at (800) 852-7550
- County Department of Environmental Health at (858) 505-6657; after hours at (858) 565-5255 and request DEH Hazmat be notified. Leave a voicemail message if a Duty Clerk is not available.
- City of San Diego Fire Department, HIRT (619) 533-4380

B. If you answered YES to Questions 4 or 11, you must also contact:

- Federal National Response Center (NRC) at (800) 424-8802

C. If you answered YES to Question 4 for a release to a storm drain conveyance system, surface waters, wetlands, or waterway, you must also notify (See Chemical Release Report Form for other agencies):

- Regional Water Quality Control Board, by faxing a completed Chemical Release Reporting Form (Form 304), at (619) 516-1994
- City of San Diego Storm Water Pollution Prevention Program, by calling (619) 235-1000

D. If you need assistance cleaning up the chemical release, contact the Citywide Hazardous Waste contractor, Ocean Blue at (800) 990-9930.

The supervisor may contact Public Works Dispatch (formerly Station 38) at (619) 527-7500 for assistance in completing the regulatory reporting, however, the supervisor is responsible to ensure the reporting procedures have been followed.

EXAMPLES OF REGULATED CHEMICALS

Below is a general list of regulated substances frequently used by City employees which may require regulatory reporting if released. Complete the Chemical Release Reporting Assessment for any substance released at the work site. Below is a sample list only; all flammable and corrosive chemicals could potentially be reportable if released.

Hazardous Material Category	Examples
Fuels	diesel or gasoline
Paints	oil-based, water-based (latex)
Lubricants	motor oil, hydraulic oil, gear oil
Coolants	antifreeze (any type)
Cleaners/Degreasers	restroom cleaning products, graffiti removers, solvents, parts cleaners, asphalt release agents
Gases	welding gases, chemical evaporation, gases in cylinders, propane

REPORTABLE QUANTITY FOR FEDERAL REPORTING

If the chemical release exceeds the amount listed below, then the incident must be reported immediately to the Federal National Response Center (NRC), in addition to notifications to state and local regulatory agencies.

Chemical	Reportable Quantity
Antifreeze (50% solution)	1,040 gallons solution or 5,000 pounds of ethylene glycol
Diesel	11 gallons or 100 pounds
Gasoline	14 gallons or 100 pounds
Paint (only oil-based)	11 gallons or 100 pounds
Flammable Chemicals (refer to label signal word or SDS)	12 gallons
Corrosive Chemicals (refer to label signal word or SDS)	12 gallons

Instructions for Completed Assessment

1. Attach completed Assessment to completed Chemical Release Reporting Form (Form 304).
2. Place a copy of the Assessment and completed Chemical Release Reporting Form (Form 304) in the facility file.
3. If the release was reportable to regulatory agencies; Fax (858-492-5089) or send a copy of the Assessment and Chemical Release Reporting Form (Form 304) to Environmental Services Department, Hazardous Materials Management Program, MS 1103-A.

ATTACHMENT 2 – CHEMICAL RELEASE REPORTING FORM (FORM 304)

Form found at: <http://citynet.sannet.gov/esd/forms/hazmat.shtml>

**CHEMICAL RELEASE REPORTING FORM
(FORM 304)**

Section 1	Facility Name: _____ Division: _____																														
	Facility Address: _____																														
	Name and Phone of Emergency Contact at Facility: _____ Phone: _____																														
	Location of Incident: _____																														
	Address: _____ Date of Incident: _____																														
	Chemical Name (or Trade Name): _____ CAS Number _____																														
	Physical State Stored: <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas Physical State Released: <input type="checkbox"/> Solid <input type="checkbox"/> Liquid <input type="checkbox"/> Gas																														
	<table style="width:100%; border: none;"> <tr> <td style="border: none;"><u>Time of Release</u></td> <td style="border: none;"><u>Duration of Release</u></td> <td style="border: none;"><u>Quantity Released</u></td> <td style="border: none;"><u>Location Released</u></td> </tr> <tr> <td style="border: none;">_____ am/pm</td> <td style="border: none;">_____ days</td> <td style="border: none;">_____ pounds</td> <td style="border: none;"><input type="checkbox"/> Secondary Containment</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;">_____ hours</td> <td style="border: none;">_____ gallons</td> <td style="border: none;"><input type="checkbox"/> Storm Drain</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;">_____ minutes</td> <td style="border: none;">_____ cu. ft.</td> <td style="border: none;"><input type="checkbox"/> Soil/dirt</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none;"><input type="checkbox"/> Sewer</td> </tr> <tr> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none;"></td> <td style="border: none;"><input type="checkbox"/> Pavement <input type="checkbox"/> Other _____</td> </tr> </table>		<u>Time of Release</u>	<u>Duration of Release</u>	<u>Quantity Released</u>	<u>Location Released</u>	_____ am/pm	_____ days	_____ pounds	<input type="checkbox"/> Secondary Containment		_____ hours	_____ gallons	<input type="checkbox"/> Storm Drain		_____ minutes	_____ cu. ft.	<input type="checkbox"/> Soil/dirt				<input type="checkbox"/> Sewer				<input type="checkbox"/> Pavement <input type="checkbox"/> Other _____					
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City Fire Dept HIRT (619) 533-4380	_____	_____	_____	_____																											
Other Agencies Notified <input type="checkbox"/> ESD HazMat (858) 573-1204 <input type="checkbox"/> Regional Water Quality Control Board Fax (619) 516-1994 <input type="checkbox"/> City Storm Water (619) 235-1000 <input type="checkbox"/> Ca. Dept Fish and Game (858) 467-4201 <input type="checkbox"/> US Coast Guard (619) 278-7032 <input type="checkbox"/> Other _____																															
Factors Contributing to Release (Check all factors involved) <input type="checkbox"/> Equipment Failure <input type="checkbox"/> Unusual Weather Conditions <input type="checkbox"/> Operator Error <input type="checkbox"/> Training Deficiencies <input type="checkbox"/> Faulty Process Design <input type="checkbox"/> Accident <input type="checkbox"/> Other _____																															
Actions Taken (Check all actions taken) <input type="checkbox"/> Containment <input type="checkbox"/> Decontamination of Persons/Equipment <input type="checkbox"/> System Shut Down <input type="checkbox"/> Dilution/Neutralization <input type="checkbox"/> Evacuation <input type="checkbox"/> Monitoring <input type="checkbox"/> Hazard Removal <input type="checkbox"/> Stored for Disposal <input type="checkbox"/> Other _____																															
Known or Anticipated Health Effects of Release (Refer to SDS) (a) Acute or Immediate: _____ (b) Chronic or Delayed: _____ (c) Did an employee receive a chemical exposure above the OSHA PEL? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Unknown If yes, must make notifications to regulatory agencies in Section 2. (d) Total number of employee and public injuries resulting from release: _____ (e) Total number of people hospitalized resulting from release: _____																															
Additional Information about the Release _____ _____ _____ _____																															

I certify under penalty of law that I have personally examined and am familiar with the information submitted and believe the submitted information is true, accurate, and complete.

Print Name: _____ Job Title: _____
 Signature: _____ Date: _____

Refer to back side for form instructions.

INSTRUCTIONS AND REFERENCE INFORMATION TO COMPLETE FORM 304

Complete section with facility/contact information and basic incident information as follows:

List Facility Name, Address and Emergency Contact Information:

The Emergency Contact person is the person officially in charge of the facility.

List Name of Location of Incident, Address, and Incident Date

List Chemical Name or Trade Names (common or manufacturer's name for the product):

NOTE: If chemical is a mixture, list percentage of chemical in solution (ex. 12% Sodium Hypochlorite)

List Chemical's CAS Number: Refer to SDS sheet.

Check box for Physical State Stored and Physical State Released

Time of Release: Enter time of the day release was discovered.

Duration of Release: The length of time from the start of the release to when the release was stopped.

Quantity Released: Enter the total amount of chemical released. If the released chemical is a solution, calculate the amount of actual chemical released and note this amount released in pounds in Section 5.

Location Released: Check all boxes that describe where the released chemical reached.

Initial Notifications: Make Regulatory Notifications IMMEDIATELY if answer "YES" to any of the following:

1. Is Fire Department assistance needed due to an injury, OR due to the amount, location, or type of chemical released?
2. Has an employee or the public been injured (i.e., sent to a medical provider)?
3. Did the chemical release cause damage to public or private property?
4. Did the chemical release extend into any sewer, surface waters, storm water conveyance systems, utility vaults and conduits, wetlands, waterways, public roads, soil, or off site?
5. Did anyone, other than employees in the immediate area of the release, evacuate?
6. Did a release escape secondary containment?
7. Was there an uncontrolled or un-permitted release to the air from a chemical reaction or containerized gas?
8. Is the incident an imminent threat of release where a condition creating a substantial probability of harm requires immediate action to prevent, reduce, or mitigate damages to persons, property, or the environment?
9. Is the incident an imminent threat of release due to an increased potential for fire, line rupture, equipment failure, or other outcomes that may endanger or cause exposure to employees, the public, or the environment?
10. Does the spill or threatened release involve an unknown material or contain an unknown hazardous constituent?
11. Did the chemical release exceed the federal reportable quantity? (Estimate the total quantity released or amount evaporating.) See list on back side of the Assessment form for reportable quantities for some common chemicals used by staff. For other reportable quantities, refer to the SDS, *40 Code of Federal Regulations, Section 304*, or website <http://homer.ornl.gov/rq/>.

Notification Assistance: When asked, Public Works Dispatch (formerly Station 38) (619) 527-7500 can assist in contacting regulatory agencies. Provide Public Works Dispatch staff with agency phone numbers, location of spill, and other important information known at the time of the call. Call Public Works Dispatch staff after release is cleaned up to obtain each agency's incident control number (as applicable). If you do not request Public Works Dispatch assistance, then you are responsible to call the agencies.

Other Agencies Notified: Check the box if any other agencies were notified.

Factors Contributing to Release: Check all boxes that describe why the release occurred.

Actions Taken: Check all boxes that describe actions taken during the incident.

Known or Anticipated Health Effects of Release:

Refer to the chemical SDS for information on immediate or long term health affects when exposed to the chemical.

Check the box if an employee received an exposure above the CALOSHA PEL (PEL listed on SDS when applicable).

Note the number of employees or the public that were injured or required hospitalization.

Additional Information about the Release:

Document other pertinent details about the chemical release. If the supervisor in charge determines the release does not meet the Initial Notification criteria, write the incident specific details for each criterion to support that finding.

Signature: Print and sign your name, job title and date.

Required Copies: Keep the original form, and make copies for your chain-of-command. If the Emergency Contact is not in your chain-of-command, also send a copy to him/her. If any notifications were made, fax a copy to Environmental Services Department/HazMat Management Program – Fax (858) 492-5089. Revised 8/9/2016

Section 1

Section 2

Section 3

Section 4

Section 5

ATTACHMENT F
INTENTIONALLY LEFT BLANK

ATTACHMENT G
CONTRACT AGREEMENT

CONTRACT AGREEMENT

CONSTRUCTION CONTRACT

This contract is made and entered into between THE CITY OF SAN DIEGO, a municipal corporation, herein called "City", and **AVI Systems, Inc.**, herein called "Contractor" for construction of **AV & E Voting System**; Quote No. M-21-0027; in the amount of **Two Hundred Twenty Three Thousand Seven Hundred Eighty One Dollars and Zero Cents (\$223,781.00)**, which is comprised of the Base Quote.

IN CONSIDERATION of the payments to be made hereunder and the mutual undertakings of the parties hereto, City and Contractor agree as follows:

1. The following are incorporated into this contract as though fully set forth herein:
 - (a) Faithful Performance and Payment Bonds.
 - (b) Appendix A – Site Conditions and Asbestos Requirements, which is incorporated into this Agreement by this reference.
 - (c) Proposal included in the Quote documents by the Contractor.
 - (d) Reference Standards listed in the Instruction to Bidders and the Supplementary Special Provisions (SSP).
 - (e) That certain documents entitled **AV & E-Voting System**, on file in the office of the Public Works Department as Document No. **21004846**, as well as all matters referenced therein.
2. The Contractor shall perform and be bound by all the terms and conditions of this contract and in strict conformity therewith shall perform and complete in a good and workmanlike manner **AV & E-Voting System**, Minor Contract Number: **M-21-0027**, San Diego, California.
3. For such performances, the City shall pay to Contractor the amounts set forth at the times and in the manner and with such additions or deductions as are provided for in this contract, and the Contractor shall accept such payment in full satisfaction of all claims incident to such performances.
4. No claim or suit whatsoever shall be made or brought by Contractor against any officer, agent, or employee of the City for or on account of anything done or omitted to be done in connection with this contract, nor shall any such officer, agent, or employee be liable hereunder.
5. This contract is effective as of the date that the Mayor or designee signs the agreement.


CONTRACT AGREEMENT (continued)

IN WITNESS WHEREOF, this Agreement is signed by the City of San Diego, acting by and through its Mayor or designee, pursuant to Municipal Code **§22.3102** authorizing such execution.

THE CITY OF SAN DIEGO

APPROVED AS TO FORM

By 

Mara W. Elliott, City Attorney
By 

Print Name: Stephen Samara
Principal Contract Specialist
Engineering & Capital Projects Department

Print Name: Jennifer L. Berry
Deputy City Attorney

Date: 12/9/2020

Date: December 10, 2020

CONTRACTOR

By 
David Bunting (Nov 24, 2020 16:16 PST)

Print Name: David Bunting

Title: Area Vice President

Date: Nov 24, 2020

City of San Diego License No.: B2010032969

State Contractor's License No.: CA - 792548

DEPARTMENT OF INDUSTRIAL RELATIONS (DIR) REGISTRATION NUMBER: 1000036874

CERTIFICATIONS AND FORMS

The Bidder, by submitting its electronic quote, agrees to and certifies under penalty of perjury under the laws of the State of California, that the certifications, forms and affidavits submitted as part of this quote are true and correct.

Bidder's General Information

To the City of San Diego:

Pursuant to "Notice Inviting Quotes", specifications, and requirements on file with the City Clerk, and subject to all provisions of the Charter and Ordinances of the City of San Diego and applicable laws and regulations of the United States and the State of California, the undersigned hereby proposes to furnish to the City of San Diego, complete at the prices stated herein, the items or services hereinafter mentioned. The undersigned further warrants that this quote is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the quote is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham quote, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham quote, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the quote price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the quote price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the quote are true; and, further, that the bidder has not, directly or indirectly, submitted his or her quote price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company, association, organization, quote depository, or to any member or agent thereof to effectuate a collusive or sham quote.

The undersigned bidder(s) further warrants that bidder(s) has thoroughly examined and understands the entire Contract Documents (plans and specifications) and the Bidding Documents therefore, and that by submitting said Bidding Documents as its quote proposal, bidder(s) acknowledges and is bound by the entire Contract Documents, including any addenda issued thereto, as such Contract Documents incorporated by reference in the Bidding Documents.

**NON-COLLUSION AFFIDAVIT TO BE EXECUTED BY BIDDER AND SUBMITTED WITH QUOTE
UNDER 23 UNITED STATES CODE 112 AND PUBLIC CONTRACT CODE 7106**

State of California

County of San Diego

The bidder, being first duly sworn, deposes and says that he or she is authorized by the party making the foregoing quote that the quote is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the quote is genuine and not collusive or sham; that the bidder has not directly or indirectly induced or solicited any other bidder to put in a false or sham quote, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put in a sham quote, or that anyone shall refrain from bidding; that the bidder has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the quote price of the bidder or any other bidder, or to fix any overhead, profit, or cost element of the quote price, or of that of any other bidder, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the quote are true; and further, that the bidder has not, directly or indirectly, submitted his or her quote price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, quote depository, or to any member or agent thereof to effectuate a collusive or sham quote.

CONTRACTOR CERTIFICATION

DRUG-FREE WORKPLACE

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-17 regarding Drug-Free Workplace as outlined in the WHITEBOOK, Section 5-1.3, "Drug-Free Workplace", of the project specifications, and that;

This company has in place a drug-free workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of subdivisions a) through c) of the policy as outlined.

CONTRACTOR CERTIFICATION

AMERICAN WITH DISABILITIES ACT (ADA) COMPLIANCE CERTIFICATION

I hereby certify that I am familiar with the requirements of San Diego City Council Policy No. 100-4 regarding the American With Disabilities Act (ADA) outlined in the WHITEBOOK, Section 5-1.2, "California Building Code, California Code of Regulations Title 24 and Americans with Disabilities Act", of the project specifications, and that:

This company has in place workplace program that complies with said policy. I further certify that each subcontract agreement for this project contains language which indicates the subcontractor's agreement to abide by the provisions of the policy as outlined.

CONTRACTOR CERTIFICATION

CONTRACTOR STANDARDS – PLEDGE OF COMPLIANCE

I declare under penalty of perjury that I am authorized to make this certification on behalf of the company submitting this quote, that as Contractor, I am familiar with the requirements of City of San Diego Municipal Code § 22.3004 regarding Contractor Standards as outlined in the WHITEBOOK, Section 5-1.4, ("Contractor Standards and Pledge of Compliance"), of the project specifications, and that Contractor has complied with those requirements.

I further certify that each of the Contractor's subcontractors has completed a Pledge of Compliance attesting under penalty of perjury of having complied with City of San Diego Municipal Code § 22.3004.

CONTRACTOR CERTIFICATION

Equal Benefits Ordinance Certification

I declare under penalty of perjury that I am familiar with the requirements of and in compliance with the City of San Diego Municipal Code § 22.4300 regarding Equal Benefits Ordinance.

CONTRACTOR CERTIFICATION

Equal Pay Ordinance Certification

Contractor shall comply with the Equal Pay Ordinance (EPO) codified in the San Diego Municipal Code (SDMC) at section 22.4801 through 22.4809, unless compliance is not required based on an exception listed in SDMC section 22.4804.

Contractor shall require all of its subcontractors to certify compliance with the EPO in their written subcontracts.

Contractor must post a notice informing its employees of their rights under the EPO in the workplace or job site.

By signing this Contract with the City of San Diego, Contractor acknowledges the EPO requirements and pledges ongoing compliance with the requirements of SDMC Division 48, section 22.4801 et seq., throughout the duration of this Contract.

ELECTRONICALLY SUBMITTED FORMS

THE FOLLOWING FORMS MUST BE SUBMITTED IN PDF FORMAT WITHIN 3 WORKING DAYS OF THE NOTICE OF INTENT TO AWARD (NOI)

The following forms are to be completed by the bidder and submitted electronically.

- A. CONTRACTOR'S CERTIFICATION OF PENDING ACTIONS**
- B. MANDATORY DISCLOSURE OF BUSINESS INTERESTS FORM**
- C. LIST OF SUBCONTRACTORS (INCLUDING TIER)**
- D. DEBARMENT AND SUSPENSION CERTIFICATION FOR PRIME CONTRACTORS**
- E. DEBARMENT AND SUSPENSION CERTIFICATION FOR SUBCONTRACTORS, SUPPLIERS, AND MANUFACTURERS**

Quotes will not be accepted until ALL the above-named forms are submitted.

CONTRACTOR'S CERTIFICATION OF PENDING ACTIONS

As part of its quote, the Bidder shall provide to the City a list of all instances within the past 10 years where a complaint was filed or pending against the Bidder in a legal or administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors or suppliers, and a description of the status or resolution of that complaint, including any remedial action taken.

CHECK ONE BOX ONLY.

- The undersigned certifies that within the past 10 years the Bidder has NOT been the subject of a complaint or pending action in a legal administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors or suppliers.

- The undersigned certifies that within the past 10 years the Bidder has been the subject of a complaint or pending action in a legal administrative proceeding alleging that Bidder discriminated against its employees, subcontractors, vendors or suppliers. A description of the status or resolution of that complaint, including any remedial action taken and the applicable dates is as follows:

DATE OF CLAIM	LOCATION	DESCRIPTION OF CLAIM	LITIGATION (Y/N)	STATUS	RESOLUTION/REMEDIAL ACTION TAKEN

Contractor Name: AVI Systems, Inc.

Certified By David Bunting Title Area Vice President
Name
David Bunting Date Nov 24, 2020
David Bunting (Nov 24, 2020 16:16 PST)
Signature

USE ADDITIONAL FORMS AS NECESSARY

Mandatory Disclosure of Business Interests Form

BIDDER/PROPOSER INFORMATION

Legal Name		DBA	
AVI Systems, Inc.			
Street Address	City	State	Zip
10070 Willow Creek Rd,	San Diego	CA	92131
Contact Person, Title		Phone	Fax
Danny Patterson, Sr. Account Manager		858-653-4313	858-695-7844

Provide the name, identity, and precise nature of the interest* of all persons who are directly or indirectly involved** in this proposed transaction (SDMC § 21.0103).

* The precise nature of the interest includes:

- the percentage ownership interest in a party to the transaction,
- the percentage ownership interest in any firm, corporation, or partnership that will receive funds from the transaction,
- the value of any financial interest in the transaction,
- any contingent interest in the transaction and the value of such interest should the contingency be satisfied, and
- any philanthropic, scientific, artistic, or property interest in the transaction.

** Directly or indirectly involved means pursuing the transaction by:

- communicating or negotiating with City officers or employees,
- submitting or preparing applications, bids, proposals or other documents for purposes of contracting with the City, or
- directing or supervising the actions of persons engaged in the above activity.

Name	Title/Position
Danny Patterson	Sr. Account Manager
City and State of Residence	Employer (if different than Bidder/Proposer)
San Diego, CA	
Interest in the transaction	
Directly involved in submitting or preparing applications, bids, proposals, and documents - 50%	

Name	Title/Position
David Bunting	Area Vice President
City and State of Residence	Employer (if different than Bidder/Proposer)
San Diego, CA	
Interest in the transaction	
Directly Supervising the Actions of all AVI Personnel on project. - 50%	

* Use Additional Pages if Necessary *

Under penalty of perjury under the laws of the State of California, I certify that I am responsible for the completeness and accuracy of the responses contained herein, and that all information provided is true, full and complete to the best of my knowledge and belief. I agree to provide written notice to the Mayor or Designee within five (5) business days if, at any time, I learn that any portion of this Mandatory Disclosure of Business Interests Form requires an updated response. Failure to timely provide the Mayor or Designee with written notice is grounds for Contract termination.

Daniel Patterson, Sr. Account Manager



11-30-2020

Print Name, Title

Signature

Date

Failure to sign and submit this form with the bid/proposal shall make the bid/proposal non-responsive. In the case of an informal solicitation, the contract will not be awarded unless a signed and completed Mandatory Disclosure of Business Interests Form is submitted.

LIST OF SUBCONTRACTORS (INCLUDING TIER)

In accordance with the requirements of the "Subletting and Subcontracting Fair Practices Act", Section 4100, of the California Public Contract Code (PCC), the Bidder is to list below the name, address and license number of each Subcontractor who will perform work, labor, render services or specially fabricate and install a portion [type] of the work or improvement, in an amount of or in excess of 0.5% of the Contractor's total Bid. The Contractor is to list only one Subcontractor for each portion of the Work. The Bidder's attention is directed to the Special Provisions - General; Paragraph 2-3 Subcontracts, which stipulates the percentage of the Work to be performed with the Bidder's own forces. In addition, the bidder is to list below the name address, license number, DIR registration of any known tiered subcontractors who will perform work, labor, render services or specially fabricate and install a portion [type] of the work or improvement pursuant to the contract. It is the responsibility of the Contractor to notify the City of any additional subcontractors, including tiered, that are utilized on the project as soon as it is known.

If no subcontractors are being utilized for this contract, please fill in form using "N/A" (not applicable) and submit accordingly. Use of "N/A" for work that exceeds 0.5%, or failure to list a subcontractor for work that exceeds 0.5% of the Contractor's total Bid indicates the Contractor will self-perform the work.

NAME, ADDRESS AND TELEPHONE NUMBER OF SUBCONTRACTOR	SUB TYPE (C or D*)	DIR REGISTRATION NUMBER	SUBCONTRACTOR LICENSE NUMBER	TYPE OF WORK	DOLLAR VALUE OF SUBCONTRACT	IDENTIFICATION OF SUB TIER LEVEL (1 ST , 2 ND , 3 RD , ETC.) **	NAME OF CONTRACTOR REPORTING TO
Name: <u>N/A</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____							
Name: <u>N/A</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____							
Name: <u>N/A</u> Address: _____ City: _____ State: _____ Zip: _____ Phone: _____ Email: _____							

*C - Constructor (builder)

*D - Designer (Preparing or modifying designs for construction projects)

** 1st tier means subcontractor is reporting directly to the prime contractor. 2nd tier means the subcontractor is reporting to the 1st tier subcontractor, and so on.

**** USE ADDITIONAL FORMS AS NECESSARY ****

DEBARMENT AND SUSPENSION CERTIFICATION

EFFECT OF DEBARMENT OR SUSPENSION
To promote integrity in the City's contracting processes and to protect the public interest, the City shall only enter into contracts with responsible bidders and contractors. In accordance with San Diego Municipal Code 522.0814 (a): <i>Bidders and contractors</i> who have been <i>debarred</i> or <i>suspended</i> are excluded from submitting bids, submitting responses to requests for proposal or qualifications, receiving <i>contract awards</i> , executing <i>contracts</i> , participating as a <i>subcontractor</i> , employee, agent or representative of another <i>person</i> contracting with the City.

As part of its bid or proposal (Non-Price Proposal in the case of Design-Build contracts), the Bidder shall provide to the City a list of Names of the Principal Individual owner(s).

The names of all persons interested in the foregoing proposal as Principals are as follows:

NAME	TITLE
Joel Lehman	COO/Secretary
Randi Borth	Treasurer
David Bunting	Area Vice President

IMPORTANT NOTICE: If Bidder or other interested person is a corporation, state secretary, treasurer, and manager thereof; if a co-partnership, state true name of firm, also names of all individual co-partners composing firm; if Bidder or other interested person is an individual, state first and last names in full.

The Bidder, under penalty of perjury, certifies that, except as noted below, he/she or any person associated therewith in the capacity of owner, partner, director, officer, manager:

- Is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any Federal, State or local agency;
- has not been suspended, debarred, voluntarily excluded or determined ineligible by any Federal, State or local agency within the past 3 years;
- does not have a proposed debarment pending; and
- has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past 3 years.

If there are any exceptions to this certification, insert the exceptions in the following space.

Exceptions will be considered in determining bidder responsibility. For any exception noted above, indicate below to whom it applies, initiating agency, and dates of action.

Contractor Name: AVI Systems, Inc.

Certified By David Bunting Title Area Vice President

Name

David Bunting
David Bunting (Nov 24, 2020 14:16 PST)

Signature

Date Nov 24, 2020

NOTE: Providing false information may result in criminal prosecution or administrative sanctions.

**DEBARMENT AND SUSPENSION CERTIFICATION
SUBCONTRACTORS, SUPPLIERS AND MANUFACTURERS
TO BE COMPLETED BY BIDDER
IF NONE PLACED N/A ON FORM**

Names of the Principal individual owner(s)

As part of its bid or proposal (Non-Price Proposal in the case of Design-Build contracts), the Bidder shall provide to the City a list of Names of the Principal Individual owner(s) for their subcontractor/supplier/manufacturers.

Please indicate if principal owner is serving in the capacity of **subcontractor, supplier, and/or manufacturer:**

SUBCONTRACTOR SUPPLIER MANUFACTURER

NAME	TITLE
Randy Klein	President, CEO (CRESTRON)

SUBCONTRACTOR SUPPLIER MANUFACTURER

NAME	TITLE
Jan De Witte	CEO (BARCO)

SUBCONTRACTOR SUPPLIER MANUFACTURER

NAME	TITLE
Rashid Skaf	President, CEO, Co-Chairman (BIAMP)

SUBCONTRACTOR SUPPLIER MANUFACTURER

NAME	TITLE

Contractor Name: AVI Systems, Inc.

Certified By David Bunting Title Area Vice President

Name

David Bunting
David Bunting (Nov 24, 2020 16:16 PST)

Date Nov 24, 2020

Signature

USE ADDITIONAL FORMS AS NECESSARY

Retail Sales Agreement



AVI Systems Inc., 10070 Willow Creek Road San Diego, CA, 92131-1623 | Phone: (858)653-4300, Fax: (858)695-7844

Proposal Number: 1029236
Prepared For: City of San Diego
Attn: Daichi Pantaleon

Proposal Date: October 22, 2020

RFQ City Council Chambers

Prepared By: Daniel Patterson
Phone: (858)653-4313
Email: danny.patterson@avisystems.com

BILL TO

Attn: Daichi Pantaleon
City of San Diego
1200 Third Avenue Suite 200, MS 56P
San Diego, CA, 92101
Phone: (619)236-6000
Email: dpantaleon@sandiego.gov
Customer Number: COS0033

SITE

Attn: Daichi Pantaleon
City of San Diego Public Works
1200 Third Avenue Suite 200, MS 56P
San Diego, CA, 92101
Phone: (619)236-6000
Email: dpantaleon@sandiego.gov

COMMENTS

DIR Registration No. 1000036874 | Expiration Date: 6/30/2022
State of California Contractor's License | C-7 Low Voltage No.: 792548 | Expiration Date 05/31/2022

PRODUCTS AND SERVICES SUMMARY

Equipment	\$76,685.00
Integration	\$81,646.00
PRO Support – 5 year	\$53,741.00
Bonding	\$2,916.00
Shipping & Handling	\$2,849.91
Tax	\$5,943.09
Grand Total	\$223,781.00

Unless otherwise specified. The prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the time stated for payment on each invoice. Discount only applies to new items included on the invoice, and only applies if the balance on the invoice is paid in full.

All returned equipment is subject to a restocking charge. The prices are valid for 30 days and may be locked in by signing this Retail Sales Agreement.

Overdue balances are subject to a finance charge of 1.5% per month, or interest at the highest rate permitted by applicable law. In the event AVI must pursue collection of unpaid invoices, Customer agrees to pay all of AVI's costs of collection, including its attorneys' fees.

INVOICING AND PAYMENT TERMS

Customer and AVI have agreed on the payment method of ON ACCOUNT. Payment must be remitted by stated method. To the extent Customer seeks to use of any payment methods other than stated, and that payment method results in an increased transaction cost to AVI, the new payment must be approved in writing, and the Customer shall be responsible for paying the increased transaction cost to AVI associated with the change in payment method. Payments shall be made 30 days from invoice date. So long as the invoice has been sent and the Customer's payment is made within the terms work will continue.

AVI uses progress billing, and invoices for equipment and services allocated to the contract on a monthly basis. Unless otherwise specified, all items quoted (goods and services) as well as applicable out of pocket expenses (permits, licenses, shipping, etc.) are invoiced in summary (including applicable sales taxes due for each category of invoiced items).

Customer is to make payments to the following "Remit to" address:

AVI Systems
NW8393 PO Box 1450
Minneapolis, MN 55485-8393

If Payment Method is ACH: Customer must make all payments in the form of bank wire transfers or electronic funds transfers through an automated clearinghouse with electronic remittance detail, in accordance with the payment instructions AVI Systems provides on its invoice to Customer.

A monthly summary of detailed equipment received is available upon request. Equipment received may be different than equipment billed based on agreed billing method.

TAXES AND DELIVERY

Unless stated otherwise in the "Products and Services Summary" above, AVI will add and include all applicable taxes, permit fees, license fees, and delivery charges to the amount of each invoice. Taxes will be calculated according to the state law(s) in which the product(s) and/or service(s) are provided. Unless Customer provides a valid tax exemption certificate for any tax exemption(s) claimed, AVI shall invoice for and collect all applicable taxes in accordance with state law(s), and Customer will be responsible for seeking a tax credit/refund from the applicable taxing authority.

AGREEMENT TO QUOTE AND DOCUMENTS CONSTITUTING YOUR CONTRACT WITH AVI

Customer hereby accepts the above quote for goods and/or services from AVI. When duly executed and returned to AVI, AVI's Credit Department will check Customer's credit and approve the terms. After approval by AVI's Credit Department and signature by AVI, this Retail Sales Agreement will, together with the [AVI General Terms & Conditions](http://www.avisystems.com/TermsOfSale) (which can be found at <http://www.avisystems.com/TermsOfSale>) form a binding agreement between Customer and AVI. (This Retail Sales Agreement and the AVI General Terms & Conditions of Sale (the "T&Cs") are referred to collectively as the "Agreement"). If not defined in this Agreement, all capitalized terms shall have the meaning given to them in the T&Cs. Should AVI's Credit Department determine at any point prior to AVI commencing work that Customer's credit is not adequate, or should it otherwise disapprove of the commercial terms, AVI reserves the right to terminate the Agreement without cause and without penalty to AVI.

AGREED AND ACCEPTED BY

Company

Signature

Printed Name

Date

AVI Systems, Inc.

Company

Signature

Printed Name

Date

CONFIDENTIAL INFORMATION

The company listed in the "Prepared For" line has requested this confidential price quotation, and shall be deemed "Confidential Information" as that term is defined in the T&Cs. This information and document is confidential and is intended solely for the private use of the customer identified above. Customer agrees it will not disseminate copies of this quote to any third party without the prior written consent of AVI. Sharing a copy of this quote, or any portion of the Agreement with any competitor of AVI is a violation of this confidentiality provision. If you are not the intended recipient of this quote (i.e., the customer), you are not properly in possession of this document and you should immediately destroy all copies of it.

SERVICES TO BE PROVIDED

INTEGRATION SERVICES

INTEGRATION SCOPE OF WORK

A. SUMMARY: City of San Diego Council Chambers AV Update. Project will be Prevailing wage and has asbestos limitations within the room, refer to RFP documentation for guidance.

B. SYSTEM DESCRIPTION:

12th Floor Council Chambers

- Functionality Description: 12th Floor City Council Chambers
- Displays:
 - Existing displays will be de-installed and provided to the City.
 - (1) New Samsung 70" UHD LED/LCD Display will be installed in the same locations as the existing 70" Display.
 - (2) New Samsung 65" Displays will be installed on the left and right sides of the Council Chambers.
- Source Devices:
 - Clerk will have (2) inputs available, Clerk PC and a local HDMI input for a laptop.
 - Each Dias location will have an HDMI Wall plate input to be used for any presentations. Existing voting keypad will be replaced with an HDMI video input and a USB (for charging only) input for Dais members to use as needed.
 - Staff Desk will have (3) HDMI available inputs to be used as needed.
 - (1) Elmo Document camera with HDMI output and (1) HDMI Laptop input will be available.
 - (1) Barco Clickshare wireless presentation unit will be installed in the equipment rack for use.
- Audio:
 - (20) 18" Dual Flex Gooseneck Microphones will be installed at the existing microphone locations. If existing cabling is in good condition it will be reused. Each cable will be tested and re-terminated if needed, any cables with damage that require replacement will be replaced.
 - (1) New Biamp Audio DSP with acoustic echo cancelling microphone input cards, line level input card, Dante audio network card, VOIP and POTS telephone cards, and output cards.
 - Existing amplifiers and speakers will be reused as they are assumed to be working correctly.
 - AVI will troubleshoot dais mounted speakers to determine if we are able to get the dais confidence speakers to
- Conferencing:
 - Existing audio system has an analog phonenumber connection for audio conferencing capabilities. The preference of the City is to convert to a digital VoIP however the analog phonenumber can be reused if the City is unable to make the conversion. The New Audio DSP will be capable of either type of conferencing.
- Switching:
 - The entire Video system will not require a full hardware-based video switcher solution. Rather a software based virtual switcher will be used in an AV over IP design. AVI will configure and install AV encoders and decoders throughout the council chambers which will allow for future expandability and flexibility as needed. A standards-based network switch will be used to create a dedicated standalone AV network within the council chambers.
- Controls:
 - The Clerk will have a (1) 15" touch panel located on the Dias that will have simple source selection for a single source to be routed to all displays, system power controls, audio volume and mute controls for each microphone, meeting configuration selection (currently 14 meeting configurations), voting results, and an advanced routing page for expert users.
 - Council President will have a (1) 10" touch panel with the ability adjust audio volume and mute controls as well as the ability to vote.
 - Each Dais member will have a (1) 10" touch panel to be used for voting which will show speaker list, current speaker timer, and voting options available from Clerk. Total of (10) additional Dais member touch panels
 - Public presenter will have (1) 7" touch panel that will show current speaker list and speaker time that will be set by Clerk touch panel.

- **Equipment Location:**
 - Existing Equipment Rack will be reused in the current location.
 - Touch panels will be installed on the dais.
- **Lighting Fixture:**
 - AVI Systems will replace (12) Kino Flo light bulbs in the existing fixture.

C. EXCLUSIONS: The following work is **not included** in our Scope of Work:

- All conduits, high voltage, wiring panels, breakers, relays, boxes, receptacles, etc.
- Concrete saw cutting and/or core drilling
- Fire wall, ceiling, roof and floor penetration
- Necessary gypsum board replacement and/or repair
- Necessary ceiling tile or T-bar modifications, replacements and/or repair
- Structural support of equipment *AVI Systems not responsible for building related vibrations
- Installation of ceiling mounted projection screen
- All millwork (moldings, trim, cut outs, etc.)
- Patching and Painting
- Permits (unless specifically provided for and identified within the contract)
- Unless otherwise stated the pricing in this agreement does not include union labor
- Unless specifically noted lifts and scaffolding are not included

D. CONSTRUCTION CONSIDERATIONS:

In order to accomplish the outlined goals of this project, the Customer will be responsible for contracting with an outside entity to make the necessary modifications to the space as directed by AVI Systems. The costs associated with these modifications are not included in this proposal.

E. NOTICE: THIS SCOPE OF WORK IS DELIVERED ON THE BASIS OF THE FOLLOWING ASSUMPTIONS:

- The room(s) match(es) the drawings provided.
- Site preparation by the Customer and their contractors includes electrical and data placement per AVI Systems specification.
- Site preparation will be verified by AVI Systems project manager or representative before scheduling of the installation. All work areas should be clean and dust free prior to the beginning of on-site integration of electronic equipment.
- Customer communication of readiness will be considered accurate and executable by AVI Systems project manager.
- In the event of any arrival to site that AVI Systems is not able to execute work efficiently and definably progress, the Customer will be charged a fee to reimburse AVI Systems for all lost time and inefficiencies. At this time, the Customer will be presented a Contract Change Order and will/may halt work until acceptance by the Customer and rescheduling of the integration effort is agreed upon.
- Rescheduling and redeployment of AVI Systems technicians due to unacceptable site preparation may cause scheduling delays of up to 10 business days.
- There is ready access to the building / facility and the room(s) for equipment and materials.
- There is secure storage for equipment during a multi-day integration.
- If Customer furnished equipment and existing cabling is to be used, AVI Systems assumes that these items are in good working condition at this time and will integrate into the designed solution. Any repair, replacement and/or configuration of these items that may be necessary will be made at an additional cost.
- All Network configurations including IP addresses are to be provided, operational and functional before AVI Systems integration begins. AVI Systems will not be responsible for testing the LAN connections.
- Cable or Satellite drops must be in place with converter boxes operational before the completion of integration. Any delay resulting in extra work caused by late arrival of these items will result in a change order for time and materials.
- Document review / feedback on drawings / correspondence will be completed by the Customer within two business days (unless otherwise noted).

- The documented Change Control process will be used to the maximum extent possible – the Customer will have an assigned person with the authority to communicate/approve project Field Directed Change Orders and Contract Change Orders (see Appendix).
- In developing a comprehensive proposal for equipment and integration services AVI Systems' Sales Representatives and Engineering teams must make some assumptions regarding the physical construction of your facility, the availability of technical infrastructure and site conditions for installation. If any of the conditions we have indicated in the site survey form are incorrect or have changed for your particular project or project site, please let your Sales representative know as soon as possible. Conditions of the site found during integration effort which are different from those documented may have an effect on the price of the system solution, integration or services. To ensure that you have an accurate proposal based on your facility and specific to the conditions of your project, please review all project documentation carefully.

F. INTEGRATION PROJECT MANAGEMENT PROCESSES

AVI Systems will follow a foundational project management process which may include the following actions/deliverables (based on the size/complexity/duration of the integration project):

- Site Survey – performed prior to Retail Sales Agreement and attached
- Project Welcome Notice – emailed upon receipt of Purchase Order
- Project Kick-Off meeting with Customer Representative(s) – either by phone or in-person
- Project Status reviews – informal or formal – either by phone or in-person (based on the size/complexity/duration of the project)
- Project Change Control – comprised of Field Directed Change Order and/or Contract Change Order submittals (see Appendix)
- Notice of Substantial Completion (see Appendix) – at Customer walk-through – prior to Service transition

G. KNOWLEDGE TRANSFER (TRAINING)

This is geared specifically towards the end-user / operator. The purpose of this knowledge transfer is to provide operators with the necessary knowledge to confidently and comfortably operate all aspects of the integrated system. Areas covered include the following:

- Equipment and system overview
- Equipment operation and function
- Equipment start up, stop, and shut down
- Equipment automatic and manual operation
- Discussion and documentation relating to control system operation
- Discussion and documentation relating to system processor and its control applications
- Powering up, powering down AV system via control system
- Manual operation of display systems, audio system and all other related components
- Use/operation of patch panels, when and where to be used
- Who to call when help is required

H. AVI SYSTEMS INTEGRATION SERVICES RESPONSIBILITIES

AVI Systems will provide services/work for the project as described above in the Scope of Work or per the attached separate Scope of Work document detailing the scope of work to be performed.

- Provide equipment, materials and service items per the contract products and services detail.
- Provide systems equipment integration and supervisory responsibility of the equipment integration.
- Provide systems configuration, checkout and testing.
- Provide project timeline schedules.
- Provide necessary information, as requested, to the owner or other parties involved with this project to ensure that proper AC electrical power and cableways and/or conduits are provided to properly integrate the equipment within the facilities.
- Provide manufacturer supplied equipment documentation.
- Provide final documentation and “as built” system drawings (CAD) - if purchased.
- Provide system training following integration to the designated project leader or team.

I. CUSTOMER INTEGRATION SERVICES RESPONSIBILITIES

- Provide for the construction or modification of the facilities for soundproofing, lighting, electrical, HVAC, structural support of equipment, and decorating as appropriate. Includes installation of ceiling mounted projection screen.
- Provide for the ordering, provisioning, installation, wiring and verification of any Data Network (LAN, WAN, T1, ISDN, etc.) and Telephone Line (Analog or Digital) equipment and services prior to on-site integration.
- Provide all necessary cableways and/or conduits required to facilitate AV systems wiring.
- Provide all necessary conduit, wiring and devices for technical power to the AV systems equipment.
- Provide reasonable accesses of AVI Systems personnel to the facilities during periods of integration, testing and training, including off hours and weekends.
- Provide a secure area to house all integration materials and equipment.
- Provide a project leader who will be available for consultation and meetings.
- Provide timely review and approval of all documentation (Technical Reports, Drawings, Contracts, etc.).

CUSTOMER CARE

CUSTOMER CARE SERVICES TO BE PROVIDED

Customer Care is the ongoing care and maintenance services delivered to keep your System(s) functioning as originally designed and installed. AVI Systems will perform the services below, as further described in Definitions, for covered Systems.

Entitlement	Definition	System Support	Service Level
Incident Management	AVI Systems provides Priority Support to troubleshoot, remediate, and escalate all Incidents through to resolution.	Included	Remote initiation within two (2) business hours, Monday through Friday during standard hours (8am-5pm local time, excluding holidays)
Remote Support	AVI Systems provides remote Priority Support for supported systems to diagnose and resolve incidents.	Included	Remote response within (8) business hours, Monday through Friday during standard hours (8am-5pm local time, excluding holidays)
Onsite Support	AVI Systems provides Priority Support for technician dispatch to the client location to diagnose and resolve an Incident.	Included	Onsite response within eight (8) business hours, Monday through Friday during standard hours (8am-5pm local time, excluding holidays)
Advanced Parts Replacement	AVI Systems provides advanced replacement of failed hardware components. Does not include Consumables or Obsolete Equipment.	Included	Repair and/or replacement is manufacturer dependent. Loaner Equipment on Best Effort basis
Software Update Assistance	AVI Systems provides labor to implement updates of existing software to correct software errors and/or resolve incidents	Included	
System Training	AVI Systems conducts user training to cover operation of the system and how to contact AVI Systems for support. Technical, Administrative, or Product Specific training is available separate from this agreement.	Included	Remote user training, scheduled at least one (1) week in advance
System Health Checks	AVI Systems personnel perform preventative maintenance. Includes cleaning, adjustments, functional tests, and replacement of parts to keep the system equipment in efficient operating condition.	Included	Two (2) System Health Checks per year, each scheduled at least one (1) week in advance
Asset Management	AVI Systems tracks asset information for Systems.	Included	

CUSTOMER CARE DEFINITIONS

System – Defined as the items listed in the Products and Services Detail section of this Agreement or listed on an attached Equipment List with the exception of Consumables, Owner Furnished Equipment, and Obsolete Equipment.

Priority Support – Means all work under AVI Systems support agreements with Customers is scheduled ahead of any other on-demand work.

Remote Support – Means a service whereby remote calls made to communications and terminal equipment via Customer provided IP connection to determine failures and remedies. Only available where equipment is capable and configured by AVI Systems to provide same.

Onsite Support - Service level response assumes client location is within 60 miles of an AVI Systems Service Center. Additional travel costs may apply if the client location is beyond 60 miles of an AVI Systems Service Center.

Consumables – Means parts such as recording media, batteries, projection lamps and bulbs, etc. Consumables are parts that are not included under this Agreement.

Obsolete Equipment – Defined as items (though possibly still in use) that are outdated with no manufacturer support or parts availability, or products with formal end of life as defined by their manufacturer. Obsolete Equipment are parts that are not included under this Agreement.

Loaner Equipment – Defined as table top LCD projectors and flat screen monitors under 50". Table top projectors are not integrated into a system. Flat screen monitors will be installed onto a wall if reasonably possible.

Best Effort – Means AVI Systems strives to provide the Service or repair any Incident in an appropriate and generally accepted manner using the resources available but makes no promise in this reference.

Advanced Parts Replacement - Provides for recycling of equipment covered in a system or consumables with no additional fees. Includes coverage for shipping to/from manufacturer for equipment sent to for warranty diagnosis, repair or exchange

Software Update Assistance – Defined as revisions of existing software which provide maintenance to correct software errors. Assumes software is provided at no charge by the manufacturer or covered under a valid manufacturer maintenance contract. Cascading software dependencies may impact ability to issue updates. Software and features which require additional licensing are not included under this Agreement. Changes to custom templates or scripts after initial deployment are available separate from this agreement.

SYSTEM SUPPORT TERMS

Coverage Dates – Unless otherwise stated, the service coverage date will be effective as of substantial completion or System Support Agreement invoice date; whichever is applicable. Coverage will extend for the duration specified by the corresponding line item description found in the Product and Services Detail section of this Agreement. AVI Systems reserves the right to withhold services until the invoice is paid in full.

Exclusions – For situations where AVI Systems is providing service or support under this Agreement, no cost service, maintenance or repair shall not apply to the Equipment if any person other than an AVI Systems technician or other person authorized by AVI Systems, without AVI Systems prior written consent, improperly wires, integrates, repairs, modifies or adjusts the Equipment or performs any maintenance service on it during the term of this Agreement. Furthermore, any Equipment service, maintenance or repair shall not apply if AVI Systems determines, in its sole discretion, that the problems with the Equipment were caused by (a) Customer's negligence; or (b) theft, abuse, fire, flood, wind, lighting, unreasonable power line surges or brownouts, or acts of God or public enemy; or (c) use of any equipment for other than the ordinary use for which such equipment was designed or the purpose for which such equipment was intended, or (d) operation of equipment within an unsuitable operating environment, or (e) failure to provide a suitable operating environment as prescribed by equipment manufacturer specifications, including, without limitation, with respect to electrical power, air conditioning and humidity control.

Systems Support Terms are in addition to AVI Systems' General Terms and Conditions of Sale.

PRODUCTS AND SERVICES DETAIL

PRODUCTS:

<u>Model #</u>	<u>Mfg</u>	<u>Description</u>	<u>Qty</u>	<u>MSRP</u>	<u>Price</u>	<u>Extended</u>
		Video				
BE70T-H	SAMSUNG	70IN BET SERIES COMMERCIAL TV CRYSTAL UHD 250NIT 16/7 3YRS	1	\$1,090.00	\$860.00	\$860.00
BE65T-H	SAMSUNG	65IN BET SERIES COMMERCIAL TV CRYSTAL UHD 250NIT 16/7 3YRS	3	\$770.00	\$608.00	\$1,824.00
BE55T-H	SAMSUNG	55IN BET SERIES COMMERCIAL TV CRYSTAL UHD 250NIT 16/7 3YRS	2	\$552.00	\$435.00	\$870.00
XTM1U	CHIEF	Micro-Adjust Tilt Wall Mount X-Large	4	\$373.00	\$264.00	\$1,056.00
LTM1U	CHIEF	Micro-Adjust Tilt Wall Mount Large	2	\$315.00	\$223.00	\$446.00
DM-NVX-350	CRESTRON	**LIMITED SUPPLY** DM NVX@ 4K60 4:4:4 HDR Network AV Encoder/Decoder	11	\$1,800.00	\$734.00	\$8,074.00
DM-NVX-E30	CRESTRON	DM NVX@ 4K60 4:4:4 HDR Network AV Encoder	1	\$1,300.00	\$636.00	\$636.00
DM-NVX-D30	CRESTRON	DM NVX@ 4K60 4:4:4 HDR Network AV Decoder	6	\$1,300.00	\$707.00	\$4,242.00
SG350X-48MP-K9-NA	CISCO	Cisco SG350X-48MP 48- port Gigabit POE Stackable Switch	1	\$3,877.07	\$2,692.00	\$2,692.00
C2G-37200	C2G	PATCH PANEL 110-TYPE CAT6	2	\$149.99	\$123.00	\$246.00
CON-SNT-S35048MP	CISCO	SNTC-8X5XNBD Cisco SG350X-48MP 48	1	\$217.00	\$217.00	\$217.00
R9861520NA	BARCO	CSE-200 set incl CS-200 Base, 2 Buttons	1	\$1,750.00	\$1,548.00	\$1,548.00
R9861500D01C	BARCO	ClickShare Button	2	\$249.00	\$198.00	\$396.00
R9861500T01	BARCO	ClickShare Tray	1	\$79.00	\$83.00	\$83.00
1376	ELMO	PX-10E PLATFORM VISUAL PRESENTER	1	\$2,599.00	\$1,768.00	\$1,768.00
DGE-100	CRESTRON	Digital Graphics Engine 100	1	\$2,000.00	\$1,177.00	\$1,177.00
CBL-HD-3	CRESTRON	Crestron® Certified HDMI® Interface Cable, 18 Gbps, 3 ft (0.91 m)	32	\$40.00	\$22.00	\$704.00
CBL-HD-6	CRESTRON	Crestron® Certified HDMI® Interface Cable, 18 Gbps, 6 ft (1.8 m)	10	\$50.00	\$28.00	\$280.00
CBL-HD-12	CRESTRON	Crestron® Certified HDMI® Interface Cable, 18 Gbps, 12 ft (3.6 m)	2	\$70.00	\$39.00	\$78.00
DL-AR2	LIBERTY AV	DIGITALINX SECURE ADAPTER RING	2	\$132.30	\$74.00	\$148.00
C2G-27141	C2G	3FT CAT6 SNAGLESS UTP CAB	24	\$5.99	\$3.00	\$72.00
C2G-03981	C2G	2FT CAT6 SNAGLESS UTP CAB	24	\$8.49	\$3.00	\$72.00
		Integration Cables & Connectors				\$2,857.00
Sub-Total: Video						\$30,346.00

Audio

TESIRA SERVER-IO	BIAMP	Configurable I/O DSP with up to 48 channels of I/O, 1 DSP-2 card (2 additional DSP-2 cards can be ad	1	\$6,720.00	\$3,953.00	\$3,953.00
TESIRA SEC-4	BIAMP	Tesira 4 channel mic/line input card with acoustic echo cancellation per channel	6	\$742.00	\$437.00	\$2,622.00
TESIRA DAN-1	BIAMP	Tesira 64x64 Dante™ module for use in SERVER or SERVER-IO chassis	1	\$1,478.00	\$870.00	\$870.00
TESIRA STC-2	BIAMP	Tesira 2 line POTS telephone interface card	1	\$638.00	\$376.00	\$376.00
TESIRA SVC-2	BIAMP	Tesira 2 line VoIP telephone interface card	1	\$638.00	\$376.00	\$376.00
SOC-4	BIAMP	Tesira 4 channel mic/line output card	3	\$322.00	\$190.00	\$570.00
MX418/C	SHURE	MICROPHONE	20	\$294.00	\$185.00	\$3,700.00
ULXD2/SM58--H50	SHURE	ULXD2 WIRELESS HANDHELD W/SM58 HEAD	2	\$592.50	\$420.00	\$840.00
UA221	SHURE	UHF PASSIVE ANTENNA SPLITTER	2	\$151.00	\$123.00	\$246.00
LKS-2	LISTEN	ListenTALK Base8 System	1	\$3,029.00	\$2,547.00	\$2,547.00
RDLRUADA8D	RDL - RADIO DE	Audio Distribution Amplifier Balanced/	1	\$560.46	\$396.00	\$396.00
RDLPS24AS	RDL - RADIO DE	24 Vdc 500mA N. American Pwr Supply -	1	\$33.65	\$24.00	\$24.00
RDLRURA3R	RDL - RADIO DE	rack adaptor 3 rack up series module	1	\$80.93	\$58.00	\$58.00
		Integration Cables & Connectors				\$1,214.00

Sub-Total: Audio

\$17,792.00

Control System

TS-1542-TILT-B-S	CRESTRON	15.6 in. HD Touch Screen, Tabletop Tilt, Black Smooth	1	\$4,800.00	\$2,609.00	\$2,609.00
TSW-1060-B-S	CRESTRON	10.1 in. Touch Screen, Black Smooth	11	\$2,400.00	\$1,305.00	\$14,355.00
TSW-1060-TTK-B-S	CRESTRON	Tabletop Kit for TSS-10 and TSW-1060, Black Smooth	11	\$250.00	\$136.00	\$1,496.00
TSW-760-B-S	CRESTRON	7 in. Touch Screen, Black Smooth	1	\$1,400.00	\$761.00	\$761.00
DM-NVX-DIR-80	CRESTRON	DM NVX Director™ Virtual Switching Appliance for 80 Endpoints	1	\$5,000.00	\$2,718.00	\$2,718.00
CP3N	CRESTRON	3-Series Control System®	1	\$2,600.00	\$1,414.00	\$1,414.00
		Integration Cables & Connectors				\$572.00

Sub-Total: Control System

\$23,925.00

Equipment Rack

LBP-1A	MIDDLE ATLANTI	10 PACK L LACER BAR	1	\$49.00	\$28.00	\$28.00
PD-915R	MIDDLE ATLANTI	9OUT15ARCKMNT	2	\$166.00	\$94.00	\$188.00
		POWER CEN				
		Integration Cables & Connectors				\$857.00

		Sub-Total: Equipment Rack				\$1,073.00
		Press Panel				
BMD-VHUBSMART6G2020	BLACK MAGIC DE	Smart Videohub 20x20	1	\$1,995.00	\$1,995.00	\$1,995.00
BMD-CONVMBHS24K6G	BLACK MAGIC DE	Mini Converter - HDMI to SDI 6G	1	\$145.00	\$145.00	\$145.00
XLR-M	Neutrik	16 port XLR-M Patch Panel	1	\$0.00	\$133.00	\$133.00
16XB-HD	MarkerTek	My Custom Shop 16XB-HD 16-Port 12G-SDI BNC Feed-Through Patchbay Panel for HD-SDI and SDI - 1RU	1	\$159.95	\$160.00	\$160.00
		Integration Cables & Connectors				\$714.00
		Sub-Total: Press Panel				\$3,147.00
		Light Bulbs				
55C-K32	KINO FLO	Kino Flo True Match 55C-K32 55W Tungsten Balanced Compact Fluorescent Lamp, 2800 Lumens, 6 Pack	2	\$203.70	\$201.00	\$402.00
		Sub-Total: Light Bulbs				\$402.00
		Bonding				
PERFORMANCE BOND	AVI SYSTEMS	Performance Bond	1	\$0.00	\$2,916.00	\$2,916.00
		Sub-Total: Bonding				\$2,916.00
		Integration				\$81,646.00
		Total:				<u>\$161,247.00</u>

PRO SUPPORT:

<u>Model #</u>	<u>Mfg</u>	<u>Description</u>	<u>Qty</u>	<u>Price</u>	<u>Extended</u>
AVISSACUSTOM	AVI SYSTEMS	5 Year System Support Agreement	1.0000	\$53,741.00	\$53,741.00

Refer to Page 1 for the Grand Total that includes Taxes, and Shipping & Handling.

AVI Systems General Terms and Conditions of Sale

The following General Terms & Conditions of Sale (the "T&Cs") in combination with either (a) a signed Retail Sales Agreement or (b) Quote under which AVI Systems, Inc ("AVI") agrees to supply goods or services constitute a binding contract (the "Agreement") between AVI and the entity identified on page one of the Retail Sales Agreement or Quote (the "Customer"). In the absence of a separately negotiated "Master Services Agreement" between AVI and Customer signed in "wet ink" by the Chief Executive Officer or Chief Financial Officer of AVI, these T&C's shall apply. Any terms and conditions set forth in any correspondence, purchase order or Internet based form from Customer to AVI which purport to constitute terms and conditions which are in addition to those set forth in this Agreement or which attempt to establish conflicting terms and conditions to those set forth in this Agreement are expressly rejected by AVI unless the same has been manually countersigned in wet ink by an Officer of AVI.

1. Changes In The Scope of Work – Where a Scope of Work is included with this Agreement, costs resulting from changes in the scope of this project by the Customer, including any additional requirements or restrictions placed on AVI by the Customer or its representatives, will be added to the contract price. When AVI becomes aware of the nature and impact of the change, a contract Change Order will be submitted for review and approval by the Customer before work continues. AVI has the right to suspend the work on the project pending Customer's written approval of the Change Order.

2. Ownership and Use of Documents and Electronic Data – Where applicable, drawings, specifications, other documents, and electronic data furnished by AVI for the associated project under this Agreement are instruments of the services provided. These items are "Confidential Information" as defined in this Agreement and AVI shall retain all common law, statutory and other reserved rights, including any copyright in these instruments. These instruments of service are furnished for use solely with respect to the associated project under this Agreement. The Customer shall be permitted to retain copies of any drawings, specifications, other documents, and electronic data furnished by AVI for information and reference in connection with the associated project and for no other purpose.

3. Proprietary Protection of Programs – Where applicable this Agreement does not cause any transfer of title, or intellectual rights, in control systems programs, or any materials produced in connection therewith, including any source code. Any applications or programs supplied by AVI are provided, and are authorized for installation, execution, and use only in machine-readable object code form. This Agreement is expressly limited to the use of the programs by the Customer for the equipment in connection with the associated project. Customer agrees that it will not seek to reverse-engineer any program to obtain source codes, and that it will not disclose the programs source codes or configuration files to any third party, without the written consent of AVI. The programs, source codes and configuration files, together with AVI' know-how and integration and configuration techniques, furnished hereunder are proprietary to AVI, and were developed at its private expense. If Customer is a branch of the United States government, for purposes of this Agreement any software furnished by AVI hereunder shall be deemed "restricted computer software", and any data, including installation and systems configuration information, shall be deemed "limited rights data", as those terms are defined in FAR 52.227-14 of the Code of Federal Regulations.

4. Shipping and Handling and Taxes – The prices shown are F.O.B. manufacturer's plant or AVI's office depending on where items are located when direction is issued to ship to the point of integration. The Customer, in accordance with AVI's current shipping and billing practices, will pay all destination charges. In addition to the prices on this Agreement, the Customer agrees to pay amounts equal to any sales tax invoiced by AVI, or (where applicable) any use or personal property taxes resulting from this Agreement or any activities hereunder. Customer will defend, indemnify and hold harmless AVI against any claims by any tax authority for all unpaid taxes or for any sales tax exemption claimed by Customer.

5. Title – Where applicable, title to the Equipment passes to the Customer on the earlier of: (a) the date of shipment from AVI to Customer, or (b) the date on which AVI transmits its invoice to Customer.

6. Security Interest – In addition to any mechanics' lien rights, the Customer, for value received, hereby grants to AVI a security interest under the Minnesota commercial code together with the a security interest under the law(s) of the state(s) in which work is performed or equipment is delivered. This security interest shall extend to all Equipment, plus any additions and replacements of such Equipment, and all accessories, parts and connecting Equipment now or hereafter affixed thereto. This security interest will be satisfied by payment in full unless otherwise provided for in an installment payment agreement. The security interest shall be security for all sums owed by Customer under this Agreement. A copy of this Agreement may be filed as a financing statement with the appropriate authority at any time after signature of the Customer. Such filing does not constitute acceptance of this Agreement by AVI

7. Risk of Loss or Damage – Notwithstanding Customer's payment of the purchase price for Equipment, all risk of loss or damage shall transfer from AVI to Customer upon transfer of Title to Customer. Customer shall be responsible for securing insurance on Equipment from this point forward.

8. Receiving/Integration – Unless the Agreement expressly includes integration services by AVI, the Customer agrees to furnish all services required for receiving, unpacking and placing Equipment in the desired location along with integration. Packaging materials shall be the property of the Customer.

9. Equipment Warranties – To the extent AVI receives any warranties from a manufacturer on Equipment; it will pass them through to Customer to the full extent permitted by the terms of each warranty. Factory warranties vary by manufacturer, and no additional warranties are expressed or implied.

10. General Warranties – Each Party represents and warrants to the other that: (i) it has full right, power and authority to enter into and fully perform its obligations under this Agreement, including without limitation the right to bind any party it purports to bind to this Agreement; (ii) the execution, delivery and performance of this Agreement by that Party does not conflict with any other agreement to which it is a Party or by which it is bound, and (iii) it will comply with all applicable laws in its discharge of its obligations under this Agreement. AVI warrants, for a period of 90 days from Substantial Completion, the systems integration to be free from defects in workmanship. CUSTOMER WARRANTS THAT IT HAS NOT RELIED ON ANY

INFORMATION OR REPRESENTATION PROVIDED BY OR ON BEHALF OF AVI WHICH IS NOT EXPRESSLY INCLUDED IN THESE GENERAL TERMS AND CONDITIONS OR THE RETAIL SALES AGREEMENT. EXCEPT AS EXPRESSLY SET FORTH HEREIN. AVI DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES WITH REGARD TO THE EQUIPMENT, MATERIALS AND SERVICES PROVIDED BY AVI, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON INFRINGEMENT AND TITLE.

11. Indemnification – Customer shall defend, indemnify and hold harmless AVI against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), that arise in whole or in part from: (a) any negligent act or omission of Customer, its agents, or subcontractors, (b) Customer's failure to fully conform to all laws, ordinances, rules and regulations which affect the Agreement, or (c) Customer's breach of this Agreement. If Customer fails to promptly indemnify and defend such claims and/or pay AVI's expenses, as provided above, AVI shall have the right to defend itself, and in that case, Customer shall reimburse AVI for all of its reasonable attorneys' fees, costs and damages incurred in settling or defending such claims within thirty (30) days of each of AVI's written requests. AVI shall indemnify and hold harmless Customer against all damages, claims, liabilities, losses and other expenses, including without limitation reasonable attorneys' fees and costs, (whether or not a lawsuit or other proceeding is commenced), to the extent that the same is finally determined to be the result of (a) any grossly negligence or willful misconduct of AVI, its agents, or subcontractors, (b) AVI's failure to fully conform to any material law, ordinance, rule or regulation which affects the Agreement, or (c) AVI's uncured material breach of this Agreement.

12. Remedies – Upon default as provided herein, AVI shall have all the rights and remedies of a secured party under the Minnesota commercial code and under any other applicable laws. Any requirements of reasonable notice by AVI to Customer, or to any guarantors or sureties of Customer shall be met if such notice is mailed, postage prepaid, to the address of the party to be notified shown on the first page of this Agreement (or to such other mailing address as that party later furnishes in writing to AVI) at least ten calendar days before the time of the event or contemplated action by AVI set forth in said notice. The rights and remedies herein conferred upon AVI, shall be cumulative and not alternative and shall be in addition to and not in substitution of or in derogation of rights and remedies conferred by the Minnesota commercial code and other applicable laws.

13. Limitation of Remedies for Equipment – AVI's entire liability and the Customer's sole and exclusive remedy in all situations involving performance or nonperformance of Equipment furnished under this Agreement, shall be the adjustment or repair of the Equipment or replacement of its parts by AVI, or, at AVI option, replacement of the Equipment.

14. Limitation on Liability – EXCEPT IN CIRCUMSTANCES INVOLVING ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, THE TOTAL LIABILITY OF A AVI UNDER THIS AGREEMENT FOR ANY CAUSE SHALL NOT EXCEED (EITHER FOR ANY SINGLE LOSS OR ALL LOSSES IN THE AGGREGATE) THE NET AMOUNT ACTUALLY PAID BY CUSTOMER TO AVI UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTH PERIOD PRIOR TO THE DATE ON WHICH AVI'S LIABILITY FOR THE FIRST SUCH LOSS FIRST AROSE.

15. No Consequential Damages – AVI SHALL NOT HAVE ANY LIABILITY TO CUSTOMER OR TO ANY OTHER PERSON OR ORGANIZATION FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES OF ANY DESCRIPTION (INCLUDING WITHOUT LIMITATION LOST PROFITS OR LOSS OR INTERRUPTION OF BUSINESS), WHETHER BASED ON CONTRACT, NEGLIGENCE, TORT, OR ANY OTHER LEGAL THEORY, REGARDLESS OF WHETHER ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND IRRESPECTIVE OF THE NUMBER OR NATURE OF CLAIMS.

16. Acceleration of Obligations and Default – Payment in full for all "Equipment," which is defined as all goods identified in the section of the Agreement with the same title, as well for any and all other amounts due to AVI shall be due within the terms of the Agreement. Upon the occurrence of any event of default by Customer, AVI may, at its option, with or without notice, declare the whole unpaid balance of any obligation secured by this Agreement immediately due and payable and may declare Customer to be in default under this Agreement.

17. Choice of Law, Venue and Attorney's Fees – This Agreement shall be governed by the laws of the State of Minnesota in the United States of America without reference to or use of any conflicts of laws provisions therein. For the purpose of resolving conflicts related to or arising out of this Agreement, the Parties expressly agree that venue shall be in the State of Minnesota in the United States of America only, and, in addition, the Parties hereby consent to the exclusive jurisdiction of the federal and state courts located in Hennepin County, Minnesota in the United States of America and waive any right to assert in any such proceeding that Customer is not subject to the jurisdiction of such court or that the venue of such proceeding is improper or an inconvenient forum. The Parties specifically disclaim application (i) of the United Nations Convention on the International Sale of Goods, 1980, and (ii) of Article 2 of the Uniform Commercial Code as codified. In the event AVI must take action to enforce its rights under the Agreement, the court shall award AVI the attorney's fees it incurred to enforce its rights under this Agreement.

18. General – Headings are for reference purposes only and shall not affect the meaning or interpretation of this Agreement. The Parties acknowledge and agree that the Agreement has been negotiated by the Parties and that each had the opportunity to consult with its respective counsel, and shall be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either Party based on draftsmanship of the Agreement. This Agreement is not assignable by Customer without the prior written consent of AVI. Any attempt by Customer to assign any of the rights, duties, or obligations of this Agreement without such consent is void. AVI reserves the right to assign this Agreement to other parties in order to fulfill all warranties and obligations expressed herein, or upon the sale of all or substantially all of AVI's assets or business. This Agreement can only be modified by a written agreement duly signed by persons authorized to sign agreements on behalf of the Customer and of AVI, and variance from the terms and conditions of the Agreement in any order or other written notification from the Customer will be of no effect. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. AVI is not responsible for any delay in, or failure to, fulfill its obligations under this Agreement due to causes such as natural disaster, war, emergency conditions, labor strike, acts of terrorism, the substantial inoperability of the Internet, the inability to obtain supplies, or any other reason or any other cause or condition beyond AVI's reasonable control. Except as otherwise stated in the Agreement, AVI is not obliged to provide any services hereunder for Equipment located outside the United States or Puerto Rico. Scheduled completion dates are subject to change based on material shortages caused by shortages in cable and materials that are industry wide.

19. Confidentiality. The term "Confidential Information" shall mean the inventions, trade secrets, computer software in both object and source code, algorithms, documentation, know how, technology, ideas, and all other business, customer, technical, and financial information owned by AVI or the Customer, which is designated as confidential, or communicated in such a manner or under such circumstances as would reasonably enable a person or organization to ascertain its confidential nature. All the Confidential Information of a party to this Agreement shall be maintained in confidence by the other party, and neither party shall, during the term of this Agreement or for a period of three (3) years subsequent to the termination of this Agreement, divulge to any person or organization, or use in any manner whatsoever, directly or indirectly, for any reason whatsoever, any of the Confidential Information of the other party without receiving the prior written consent of the other party. AVI and the Customer shall take such actions as may be reasonably necessary to ensure that its employees and agents are bound by the provisions of this Section, which actions shall, as may be reasonably requested by either party, include the execution of written confidentiality agreements with the employees and agents of the other party. The provisions of this Section shall not have application to any information that (i) becomes lawfully available to the public; (ii) is received without restriction from another person or organization lawfully in possession of such information; (iii) was rightfully in the possession of a party without restriction prior to its disclosure; or (iv) is independently developed by a party or its employees or agents without access to the other party's similar information.

20. Nonsolicitation - To the extent permitted by applicable law, during the term of this Agreement and for a period of one (1) year after the termination this Agreement, each Party agrees that it shall not knowingly solicit or attempt to solicit any of the other Party's executive employees or employees who are key to such Party's performance of its obligations under this Agreement ("Covered Employees"). Notwithstanding the foregoing, nothing herein shall prevent either Party from hiring as an employee any person who responds to an advertisement for employment placed in the ordinary course of business by that Party and/or who initiates contact with that party without any direct solicitation of that person by that Party or its agents.

21. Price Quotations and Time to Install – AVI often installs systems at the end of a construction project. The price quoted contemplates that AVI shall have access to the location for the time shown for AVI to complete its work after the work of all other contractors is substantially complete which means, generally, all other trades are no longer generating dust in the location, and final carpeting/flooring is installed (the "Prepared Area") Failure to give AVI access to the Prepared Area for the amount of time shown for the installation may result in increased installation costs, typically in a manner proportionate to the reduction of time given to AVI to complete its work compared to the original schedule.

22. Price Quotations – Unless otherwise specified, all prices quoted reflect a discount for a cash payment (i.e., check, wire transfer) made by Customer in full within the terms of each invoice. Payment in other forms, including credit card, p-card, or other non-cash payments shall be subject to a convenience above the cash price. Please speak to your AVI representative if you have any questions in this regard.